

**Response to Letter (undated); received September 16, 1996
from Ann Heer**

COMMENT 1: This comment expresses concern about the jail location in proximity to homes, and expresses opposition to the jail being expanded at this location. The comment also states that three times this year inmates have escaped or been let out by mistake from Musick. This is not correct. There have been no on-compound escapes since August, 1995. Finally, the comment indicates that the homeowners in the community of the commentor have been largely overlooked. Extensive newspaper coverage and public notices and direct notice was sent to the homeowners in Serrano Park, and the efficiency of this notice is documented by the good turnout at various public meetings which were in the notification.

**Response to letter dated September 18, 1996
from the City of Orange**

COMMENT 1: The County of Orange appreciates the City's acknowledgement regarding the thoroughness of the EIR's investigations. The City's comments regarding the lack of fairness in concentrating jail facilities in one or two communities is acknowledged.

The EIR considers location of jail facilities at El Toro, but does not reject the alternative as of yet due to the fact that there has been no decision on the Reuse Plan.

COMMENT 2: The EIR examines further expansion at Theo Lacy because this was a request of several respondents to the Notice of Preparation and the Scoping Meeting.

There are actually 24 alternatives in the EIR, and the presentation of Theo Lacy on pages 193 is a recital of the Board's history Alternative 10 clearly recognizes the constraint of the judgement.

Response to letter dated September 26, 1996
from OCTA

COMMENT 1: The EIR traffic study uses the County traffic model and does not incorporate the traffic from the Reuse Plan analysis. The Reuse Plan was not an approved project at the time of the writing of the EIR, and therefore would be inappropriate for inclusion in the project's traffic modelling.

However, it is an incorrect statement to say that the EIR does not contain an analysis of the cumulative impacts of the jail expansion taken together with the Reuse Plan. The "Cumulative Impacts" section for the Draft EIR, at page 218, specifically discusses the Reuse Plan and incorporates its EIR by reference. Draft EIR 564 for the jail expansion states:

"Traffic - the most suspect impact in the comparison of the two projects - is tiny for the jail when compared to any alternative of the Reuse Plan, to the extent it can be considered to have no effect. For example, when comparing the total trip ends for Musick Jail to the mid-range Reuse Plan alternative (Alternative A), the jail represents 1/100th of the traffic generated by Alternative A of the Reuse Plan, an imperceptible impact."

CEQA §15130 defines how cumulative impacts should be discussed:

" (a) Cumulative impacts should be discussed when they are significant.....

(b)The following elements are necessary to an adequate discussion of cumulative impacts:

(1) Either:

(B) A summary of projections contained in an adopted general plan or related planning document which is designed to evaluate regional or areawide conditions...."

The Reuse Plan EIR is a comprehensive, regional and areawide analysis of a very large project in the vicinity of the jail. The jail expansion's impacts are dwarfed by comparison to this large project. CEQA requires review of cumulative impacts only when they are significant. In this case, the combination of the jail and the Reuse Plan for the purpose of

looking at traffic impact would actually diminish the ability of the EIR to describe cumulative impacts, because the actual impact of the jail would be diluted into the larger, yet unapproved project. Nonetheless, the EIR for the Reuse Plan specifically incorporates the jail expansion into its cumulative impacts analysis, such that the incorporated document does show the two projects together. In this way, the reader of Draft EIR 564 can look at both situations — the combination with the Reuse Plan, and the manner in which the jail was evaluated in EIR 564 (discussed below) in addition to the analysis on page 218.

Therefore, Draft EIR 564 chose to analyze the "worst case" for cumulative impacts, which was the establishment of the jail project over the next 5 to 7 years. This is a legitimate and justified approach, since the impact of the jail is magnified for cumulative impact purposes, rather than diluted by a larger project. Since the jail has no appreciable effect from a cumulative impact standpoint in traffic study analysis, it will have even less effect when combined with the Reuse Plan.

It should also be noted that the discussion of the jail traffic impacts in the absence of the Reuse Plan helps to highlight and maximize the fair share analysis for contribution of traffic to intersections, consistent with the precepts of Measure M and the Congestion Management Program. If and when a Reuse Plan is adopted and implemented, this fair share may be adjusted. However, in light of the fact that the Reuse Plan implementation time frame is likely to be substantially later than the jail implementation, the focus on the jail's impact in the near term is completely consonant with the CEQA principle of maximizing attention to the environment, since the improvements to the intersections are specifically highlighted.

Table 1

ROADWAY IMPROVEMENTS SUMMARY

LOCATION	TIME FRAME	IMPROVEMENT	STATUS
I. ARTERIALS			
Alton Pkwy, Irvine Blvd to Foothill Transportation Corridor	Interim Year	Extend six-lane roadway north to FTC	1
Bake Pkwy, I-5 to Rockfield	Interim Year	Widen to eight lanes	NC
Bake Pkwy s/o I-5	Long-Range	Extend six-lane roadway southwest to Irvine Center Drive	NC
Rockfield e/o Alton Pkwy	Long-Range	Extend four-lane roadway west to Alton Pkwy	NC
El Toro Rd/I-5 to Trabuco Rd	Interim Year	Widen to eight lanes	NC
El Toro Rd n/o Trabuco Rd	Interim Year	Widen to six lanes	NC
Irvine Blvd, Sand Cyn Rd to	Interim Year	Widen to six lanes	NC

Status notes: 1 Implemented as part of the Foothill Circulation Phasing Plan (FCPP)
NC Non-Committed

COMMENT 2: As shown in Table 24 of the DEIR, the project does not contribute measurable traffic to these facilities, therefore, no further analysis is required. As shown in Table 24, the project does not contribute measurable traffic to these facilities.

COMMENT 3: Traditional trip generation rates based on the land use category were not utilized for the proposed jail. Instead, estimates of trip generation were based on individual components of the daily operations of the proposed facility, such as sheriff and health care agency employees, inmate transfers, visitors, deliveries, the sheriff substation, and the intermediate care facility (ICF). The assumptions utilized in deriving the trip generation for each jail component are documented in the Musick Facility Expansion EIR traffic study in Chapter III and are summarized in Section 5.10.2.c of the DEIR. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 4: As stated in Section 5.10.1.b of the DEIR and the last paragraph on Page I-4 of the traffic report, long-range ADT forecasts analyzed in the study were produced by the El Toro Sub-Area Model (ETSAM), and peak hour and ADT traffic forecasts from other sources such as the South County Sub-Area Model (SCSAM) were utilized (since the ETSAM forecast ADT volumes only) as the basis for developing peak hour traffic forecasts which correlate with the ETSAM ADT forecasts. The process for developing such peak hour forecast data involved first identifying where ADT forecasts differ between ETSAM and SCSAM, for example. Then based on the magnitude of difference in ADT, volume

adjustment factors were developed which when applied to SCSAM peak hour intersection turn volume forecasts, produced adjusted SCSAM turn volume data which is consistent with the ETSAM ADT forecasts. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 5: As shown on Exhibits 31, 32, 33 and 34 of the DEIR, the proposed jail expansion increases the volumes on the I-5 and I-405 freeways by one percent or less in the interim year and long-range conditions, which is considered an insignificant impact. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

**Response to Letter (undated); received September 30, 1996)
from Richard Gash**

COMMENT 1: This comment expresses concern regarding the mentality and behavior of inmates, particularly referring to an incident in Folsom prison recently.

There are several important matters to distinguish.

Folsom is a California state prison located near Sacramento. As explained in the EIR, a prison is a facility of quite a different character than a jail. Operational characteristics are different, and the inmates in the prison are sentenced for much longer terms than are sentenced within the County jail system.

Furthermore, the maximum security housing units proposed at the Musick Jail, and installed elsewhere, seek to prevent the type of incident that occurred at Folsom prison. Recreational yards are inside the buildings, and fewer inmates are allowed to assemble in them than at Folsom. Further, inmates are carefully controlled by deputies. The article attached to the commentor's letter indicates that at least 200 inmates were in an exercise yard when the fight broke out. Inmates were racially mixed in the yard. In the Musick Jail expansion proposal, there would never be more than 20 inmates in a dormitory together. This type of security feature avoids the otherwise inevitable racial conflicts that occur not only in jails but society at large in the United States.

With respect to the gunshots fired at Folsom prison, neither sworn or unsworn personnel working within the jail system are not armed. Since there are no outdoor facilities for inmates (other than the agricultural fields worked by minimum security inmates only), and since the jail proposed on the Musick site would only deal with very small groups of inmates under highly secure conditions, firearms are not necessary for control. It is the Sheriff's policy not to use firearms in the jail.

COMMENT 2: The inmate who was referred to as escaping from a bus escaped in Santa Ana from a minimum security work crew bus. Buses used for inmates above the minimum security level are secured by bars on the windows, and the inmates are accompanied by a Deputy Sheriff. In the case of minimum security work crews, which are allowed to work at numerous locations throughout the county, the buses generally do not have bars on the windows since one of the criteria for defining a minimum security inmate is the low escape potential.

Within at least the last 10 years, there is no record of an inmate escaping off a bus in Orange County. He was apprehended a little over six hours after his escape. With respect to the parolee in Colorado, again, this is a former inmate of a prison system who was paroled out of the prison system. Since prison systems accommodate sentenced inmates of a much higher classification than would be sentenced to the Musick facility, the release of a parolee from such a facility can occasionally have disastrous consequences. However, as the Environmental Impact Report documents in the "Public Safety" section, detailed data review around all three jails in Orange County shows no correlation between released inmates or their visitors and crime in the area.

COMMENT 3: The first part of this comment is an expression of opinion. The second portion of the comment relates to a concern about a trespassing minor who would climb over a residential fence at night and be shot by a resident. Aside from the youth that the person would be a trespasser in any event. The County cannot legislate for a shooting such as this.

COMMENT 4: This is an expression of opinion concerning the project as opposed to the Environmental Impact Report or environmental issues. No further response is required.

COMMENT 5: The tract in which the commentor resides is between Bake Parkway and Lake Forest Drive, south of Jeronimo Road. A review of a Thomas Brothers Guide indicates that the access points for this tract appear to be along Jeronimo Road. Exhibit 31 of the Environmental Impact Report analyzes this segment of Jeronimo Road, indicating that the interim year ADT volume under the No Project Alternative is 20,000 ADT (ADT volumes as shown on Exhibit 26 are currently 14,000 ADT). Exhibit 32 depicts the interim year ADT volumes with the project at 20,000 ADT. Therefore, the traffic study shows no relationship between the jail and an increase in traffic in the area. In fact, the traffic does not change whatsoever on Jeronimo Road due to the jail. This supports the conclusion in the EIR indicating that the added traffic would not affect this community.

COMMENT 6: (Shown as Comment #7 inadvertently) This comment suggests that the "prison" (presumably the jail expansion) be built in close proximity to the "courthouse", public transportation, legal practices, and "families of crime oriented individuals." In essence this is an expression of opinion regarding the location of the project. The Environmental Impact Report does consider project alternatives for the location of jails at each county municipal courthouse (since there are many courthouses where inmates' motions and trials are held in Orange County), and also looks at an

alternative for locating the new South County Municipal Court at the Musick site.

However, the EIR also discloses that approximately 30% of the population of Orange County resides in the South County and just under 25% of the arrests are also in South County. This tends to suggest that the jail is located in an area which is at least generated a significant portion of systemwide arrests. There is no particular geographic location in Orange County where "families of crime oriented individuals" reside.

Public transportation is available to this area at the present time and is likely to be expanded by OCTA, as reported in the EIR, at the time that the jail is actually expanded (see pages 177 and 181 of the Draft EIR).

COMMENT 7: (Shown as Comment #8 inadvertently) It is not known specifically to what point in the EIR this comment refers, and the comment appears to be an expression of opinion. Presumably, the commentor is expressing the opinion that buildings could be demolished in Santa Ana and a jail could be built in Santa Ana. This is considered in the EIR in the "Alternatives" section at page 217.

COMMENT 8: (Shown as Comment #9 inadvertently) This appears to be an expression of opinion by the commentor regarding selection of consultants preparing Environmental Impact Reports. Since the comment does not elaborate on a specific issue, no further response can be made.

**Response to Letter dated October 1, 1996
from Carol M. Matheis**

COMMENT 1: This comment expresses opposition to the location of the jail expansion at the Musick site, and suggests that other areas which are "already crime-ridden, such as downtown Santa Ana" or "more remote areas of Orange County" be considered. In fact, these areas are considered in the "Alternatives" section of the EIR. Furthermore, the EIR specifically evaluates public safety and crime rates in areas surrounding jails, including the subject site as well as the Santa Ana Main Jail and the Theo Lacy branch jail in Orange. The foreword to the Responses to Comments contains a comprehensive response to public safety issues raised in various letters of comment, and identifies the attenuated consideration under CEQA for these issues. No further response can be made at this time, and the comment is noted as an expression of opinion.

COMMENT 2: Traffic has been adequately projected in the Environmental Impact Report. Bake Parkway traffic has increased since the opening of Bake Parkway to the freeway, but this was the anticipated volume of Bake Parkway when it was planned as an arterial highway. Bake Parkway was planned, funded, and constructed as a six-lane divided major arterial highway with an ultimate capacity of 54,000 ADT. Exhibit 34 shows the long range ADT volumes with the project, and volumes range from 28,000 (northeast of the site) to 54,000 (between Muirlands and Rockfield) on Bake Parkway. Even without the project, volumes on this road range from 28,000 (northeast of the project site) to 53,000 (between Muirlands and Rockfield) in the long range projection (Exhibit 33 of the EIR). Therefore it is not unexpected that the traffic on Bake Parkway will increase over time.

The intersection of Bake and Trabuco is not projected to be a "severe bottleneck," either in the interim year analysis or in the ultimate year analysis. Table 25 depicts this intersection as operating at Level of Service C in the morning and D in the evening in both the interim year and the year with the project. Therefore, the project has no effect on this intersection.

The effects of traffic on Bake Parkway were fully addressed in the Foothill Circulation Phasing Program EIR prepared several years ago for all of the roadways in this area, including Bake Parkway.

COMMENT 3: This is an expression of opposition to the project and raises no substantive environmental issue.

**Response to Letter dated September 25, 1996 (received October 1, 1996)
from Assemblyman Mickey Conroy, 71st District of Orange County**

COMMENT 1: This letter proposes a multi-county jail facility at George Air Force base near Adelanto in San Bernardino County and states the commentor's position regarding the advantages of this location. The commentor acknowledges the prohibitive costs of transporting prisoners back and forth from a remote site to Santa Ana to appear in trials; inmates are transported for trials, pretrial motions, and post sentencing motions. The commentor further proposes the construction of a generic courtroom at George Air Force base with court appearances via electronic close-circuit hookups.

The "Alternatives" section for the EIR examines in considerable detail the location of a remote jail site outside the county, as well as more remote sites within the county. This response will focus on the remote sites outside the county, since that is the commentor's position.

The discussion of remote sites outside of Orange County begins at page 213 of Draft EIR 564. While George Air Force base is not specifically investigated, and it is not known of any interest in a multi-county jail facility from other counties, serious obstacles to the establishment and efficacy of a jail at George Air Force base are present outside the county and are described in Section 7.13 of the Draft EIR. The County has studied a remote site outside the county (Chiraco Summit) and noted not only severe operation costs but also practical administrative problems with getting inmates to court. Also, many courts refuse to use video arraignments. Central court is the only who has agreed to use this approach.

Under current State law, the initial appearance and arraignment of a defendant incarcerated in a county jail may be conducted by two-way electronic audiovideo communication between the defendant and the courtroom. Pen. Code Sec. 977(c). With the consent of the defendant, the entry of plea may also be handled electronically. However, a defendant incarcerated in a county jail retains rights under state law to be physically present in court at other stages of his criminal prosecution, including when he enters a plea (if they do not consent to do so electronically) (Pen. Code Sec. 977(c)), during his preliminary hearing (Pen. Code Sec. 1043.5), during trial (Pen. Code Sec. 1043) and during sentencing (Pen. Code Sec. 1193 - felon; People v Kriss (1979) 96 Cal. App. 3d 913 - misdemeanor's right to be personally present or represented by counsel).

Because the jail system is in crisis at this time due to lack of bed space as documented in the Project Description chapter of the EIR (especially Section 3.2 "Statement of Need"), the project goals and objectives for this project are to bring the jail beds on in the minimum amount of time possible. Aside from the operational cost and administrative demand of such a remote site (which County studies cited in the EIR would produce transportation costs alone 8 times the normal cost), it would take a considerable amount of time to amend state law to permit the types of electronic court appearances described by the commentor.

Further, it is questionable whether requiring defendants to forego personal appearances in court at critical stages of their prosecutions, and instead to appear by video, would be constitutional. Article 1, Section 15 of the California Constitution guarantees a criminal defendant the right "to be personally present with counsel...".

Therefore, this particular alternative, described in the EIR as a remote jail site outside the county, suffers from an inability to meet some of the more critical project goals and objectives as expressed in Section 3.1 of the EIR.

COMMENT 2: The statement on page 241 cited is a typographical error. The sentence was written to read as follows: "Since the medium and maximum security inmates never leave the buildings unless they are released, go to court, or to the hospital, there is no need for these types of structures." Throughout the EIR and the Notice of Preparation that preceded the EIR, as well as public information meetings, it has been emphasized that inmates do not leave these buildings unless they are released, must attend court, or must go to the hospital because medical facilities within the jail system cannot accommodate them. This remains the case and has been stated on several occasions. Therefore, the reliance on the transportation costs in the "Alternatives" section is not misplaced. A correction will be made to the Final EIR to correct this typographical error.

COMMENT 3: This is an expression of opinion on the project. However, to the extent that the comment focuses on the purposes of an Environmental Impact Report, some elaboration is necessary in response. The purpose of an Environmental Impact Report is to examine the probable impact of a proposed project on the physical environment and to mitigate the impact on the physical environment or suggest alternatives with fewer negative impacts to the physical environment. The EIR process is narrowly focused on the impacts to the environment and the ecology, and is not designed nor intended as a generalized "staff report" or "policy study" on a project itself. Therefore, the CEQA process is a supplement to the

governmental decision-making process and not a substitute for it. While CEQA has a broad interpretation of physical impacts on the environment, including some extensions to issues of socioeconomic effect and public opposition where controversy is over physical environmental impacts, the extension of the application of CEQA is not enlarged to include general fears about a project or general opposition to a project. Therefore, the 28 alternatives considered in the Environmental Impact Report focus on locations which have equal or fewer environmental impacts, even though the project itself has not been found to have impacts to the physical environment in the EIR analysis.

COMMENT 4: This comment elaborates on the commentor's suggestion regarding the use of a multi-county detention center. As in the response to Comment 1 herein, there are legal obstacles to the implementation of this alternative at this time, not to speak of the financial obstacles. More importantly, however, the suggested alternative fails to meet basic project objectives dealing with adequate incarceration facilities on an immediate basis. The studies called for, and the results therefrom if such an alternative were pursued, would require major changes in state law and significant additional funding, the source of which is not identified.

Nonetheless, as noted in the Environmental Impact Report, the proposal within the Environmental Impact Report only addresses jail needs to the year 2006. An additional jail or jails is needed for incarceration of Orange County arrestees. Therefore, in the horizon beyond the year 2006, a multi-county detention facility at George Air Force base may provide possibilities. However, it is an alternative which would cause considerable delay in the implementation process for jail beds while the unique details of the alternative are studied and resolved. This, in addition to the considerably higher operating costs, is why a remote site for jails was rejected by the Board in prior studies. In a county where a bankruptcy recovery program has recently been initiated, and the county is observing a fiscally conservative budget, it is not identified in the comment where the increased cost for operations for a remote jail would come from. Clearly these costs could be reduced by the incorporation of housing for sworn personnel attending to the jail and the location of a court system at the jail facility itself. The County could not force these persons to relocate. However, the County Board of Supervisors has no authority to implement this alternative absent these improvements to the judicial system. The County of Orange is aware of no special legislation which has been introduced to deal with such a proposal or to amend the state laws governing court systems and inmate appearances to improve the feasibility of this alternative. Therefore, at the present time, the alternative does not appear feasible based on the evidence presented and the evidence available.

COMMENT 5: The study for the remote jail was prepared in 1990 and the "recent developments" referred to by the commentor are not as complete as represented. The only pertinent legislative change since 1990 in video conferencing permits use of video for initial appearances, arraignments and, if the defendants consent, entries of pleas when the defendants are incarcerated in local jail facilities. However, these are only the first of many proceedings in the criminal trial process, and no state law exists permitting later stages of criminal proceedings to be conducted electronically. The EIR has taken into account the video arraignment opportunities for both misdemeanants and felons in the "Alternatives" section of the EIR. In fact, video arraignments were a recommendation of the 1990 Short Term Jail Solutions Report (EIR, page 24) and have been implemented. However, these only address one court appearance of many, as noted.

**Response to Letter dated September 30, 1996
from David Bowman**

COMMENT 1: This comment is an expression of opinion in opposition to the project and is so noted. The comment raises no environmental issues. The commentor expresses his expectation to be financially compensated for a loss in value and/or marketability of his residence. Although the loss of property values is not an issue germane to CEQA, the EIR nonetheless provides the public information on socioeconomic effects in Section 5.12 of the EIR for general public information purposes. That section shows that there is no correlation between the presence of the jail and property values. The comment offers no evidence contrary to that presented in the EIR and therefore no further response can be made.

**Response to Letter dated September 27, 1996
from the State of California, Department of Transportation, District 12**

COMMENT 1: This comment raises no substantive environmental issues and requires no further response. The County of Orange agrees to keep the California Department of Transportation apprised of the further developments with respect to this project.

**Response to Letter dated September 30, 1996
from the Groves Homeowners, Inc.**

COMMENT 1: This comment is an expression of opinion in opposition to the project, with additional opposition expressed to the proposed airport. No environmental issue is raised and no further response is necessary.

**Response to Letter dated October 1, 1996
from Edwina and Joseph Stude**

COMMENT 1: This comment is addressed to both the "prison and airport" and expresses opposition to both projects. Further, the commentors express the view that it is "unpatriotic" to have a meeting on November 5 presumably because it is the day of the general election. The commentors express the view that scheduling a meeting on November 5 will deprive citizens their right to attend and protest at the *[Board of Supervisors]* meeting. The County of Orange does not believe that the scheduling of this matter on November 5 would be of any detriment to persons wishing to exercise their right to vote. The polls are open in Lake Forest and Irvine on that day from 7:00 a.m. to 7:00 p.m., and the Board of Supervisors meeting begins at 9:30 a.m. and generally adjourns close to or at 12:00 noon. Including travel time, this would leave approximately 4 hours out of a 12-hour voting period where the commentors could make a choice to attend the meeting or cast their vote at that time. Absentee ballots are also available for voting purposes, and at the time of this writing are still possible to receive. Therefore, the County believes that the scheduling of this item on November 5 will in no way impair a citizen's right to vote.

Response to Letter dated October 1, 1996
from Eugene Dale Tyler

COMMENT 1: This comment expresses criticism concerning the substance and form of the EIR, making several critiques of specific issues. Responses are provided in turn.

First, with respect to the structures being out of character for the area, the EIR, in the "Aesthetics" section (Section 5.4) and in the "Land Use and Relevant Planning" section (Section 5.8), specifically demonstrates that the buildings are completely in character with the height and design of buildings in the surrounding Irvine Spectrum and Pacific Commercentre. Buildings are only 45 feet or less in height, and do not appear in view except from the intersection of Alton Parkway and Irvine Boulevard.

With respect to visitors to the jail causing parking problems, ample parking is provided at the jail facility for visitors, and there will be no problems onsite with parking. If the commentor means to state that he has concern that persons will park on Alton Parkway, this can easily be addressed by painting the curb red and posting no parking signs. The County restricts parking on arterial highways of this character, and Alton Parkway, being a major arterial highway, would be subject to this restriction.

With respect to "loitering and committing crimes in the immediate area," the "Public Safety" section of the EIR (Section 5.9) amply demonstrates that the County has not experienced such a problem around other jails. Furthermore, such an issue would not be reviewable under CEQA in any event, since this is a social issue and not one concerning the physical environment.

The commentor makes two further suggestions. The commentor suggests that access to the jail should be from the east only with persons on route or to and from the jail arrested for using routes other than the one prescribed. This comment is not completely understood, in that Bake Parkway is on the easterly boundary of the jail. Access from Bake Parkway would place the jail entrance in closer proximity to residents, and moving this entrance away from residents was the key objective in placing the entrance at Alton Parkway. It would require state law changes to "arrest" people who use other routes than a particular entrance, since they would have committed no crime. A similar obstacle exists for the suggestion that it be considered a violation of parole/probation to be within 2 miles of the jail, except for work or

school. Again, this does not raise an environmental issue, as opposed to an expression of opinion regarding what constitutes a violation of parole or probation.

COMMENT 2: This comment disputes statements attributed to Sheriff Gates regarding problems with petty crimes and states that persons who claim they are subject to petty crimes in the area are afraid to call the police for fear of reprisals. There is no evidence provided to support this statement, and there is no evidence in police records to support this statement. It is not environmentally based, and raises no environmental issue.

The comment further asserts that Sheriff Gates is biased because of an alleged financial gain from the construction of Musick Jail. No response is required to this type of comment under CEQA, as it raises no environmental issue.

COMMENT 3: This is an expression of opposition to the Musick Jail being established at this site and urges looking at private jails or remote jails. Both of these alternatives suggested are considered in the Environmental Impact Report in the "Project Alternatives" Section (Section 7) of the EIR.

**Response to Letter dated October 2, 1996
from Thomas A. Grisafe**

COMMENT 1: The introductory comments are an expression of opinion. The project is not five stories. Five stories would be approximately 50 or 54 feet in height, and the jail buildings are limited to 45 feet in height. Additionally, commercial buildings are permitted at 35 to 50 feet in the areas surrounding the jail, and therefore would be taller than two stories. At the present time certain buildings in the area are two story, but much of the land surrounding the jail is undeveloped. The EIR clearly acknowledges the classification of inmates which would be allowed in the jail and accurately addresses the socioeconomic impact on the surrounding community beyond the extent required by CEQA. The assertion is made that the EIR is intending to promote the project and it criticizes the photographs showing the site. There are several photographic indications of the site in the EIR taken from all types of vantage points shown on Exhibit 2, Exhibit 3, and Exhibit 12. These sites also show the developed character in the area as well as the agricultural property. It is a fact that agricultural property exists in the area. A vicinity aerial photo, shown on Exhibit 3, clearly depicts residential in the vicinity of the project area.

COMMENT 2: The EIR clearly addressed the land to be left agricultural on the Musick site and indicates that this agricultural land is necessary for the support of the existing jail inmates, let alone the expansion jail inmates. There are no proposals for further expansion at this time. Because the property is necessary for agriculture, there is little likelihood that the area will be utilized for jail buildings. However, if any further expansion were contemplated in the future, further environmental documentation as required by CEQA would be necessary to address the expansion, since this Environmental Impact Report is limited to the expansion as depicted in its analysis.

COMMENT 3: It is assumed that the commentor is referring to the Interim Care Facility, which is a governmental facility for 24 emotionally disturbed juveniles. The characteristics of the facility are very carefully described in the EIR with respect to how juveniles are kept there for the therapeutic services the facility offers. The juveniles are accompanied to and from the facility by parents or parole officers, and are not allowed to freely leave the facility at will. A further description of the facility can be found at pages 37 and 38 of the EIR.

COMMENT 4: The EIR does in fact address the cumulative effect of the airport (please see response to Comment 1 for letter from OCTA). The Reuse Plan

EIR addresses the homeless shelters and facilities for the disabled that are proposed for that property. This EIR, since it incorporates the Reuse Plan by reference, provides adequate acknowledgement of those facilities. However, the commentor's concern regarding the combined effect on local property values, community maintenance, and community security are not germane environmental issues. To the extent traffic is an issue, this issue is clearly addressed in the Environmental Impact Report in both the "Transportation, Circulation and Parking" section and the "Cumulative Impacts" section.

COMMENT 5: There is no public record of the County making a "previous commitment" not to expand the Musick site to anything more than an existing minimum security facility. There was no "contract" with the citizens. In fact, the 1992 Short Term Jail Solutions Report and the 1994 Grand Jury Report both speak of expansions at the Musick site. The EIR is designed to analyze the environmental effects of the proposed project. The County cannot implement any other proposal which causes greater effects on the environment without further environmental documentation.

COMMENT 6: The traffic impact analysis in EIR 564 is not inconsistent with the airport EIR. However, since the comment does not elaborate on the commentor's basis for asserting inconsistency, no further response can be made.

COMMENT 7: The commentor's statement that the EIR does not address alternatives to this site and why alternatives were rejected by the County is completely incorrect. The EIR contains Section 7, "Alternatives to the Proposed Project", which evaluates 28 alternatives to the proposed project, including off-site alternatives. The "Alternatives" section is 26 pages in length, and in view of this extensive evaluation, no further response can be made to this comment.

COMMENT 8: It is not the role of an EIR to address or even evaluate decreased property values or social issues regarding graffiti, crimes, etc. The "just compensation" aspects of the commentor's concern are not issues for the EIR process. Therefore, this comment is considered project related and raises no environmental issues. Further, there is no evidence in the record or provided by the commentor to support the probability of dirtier streets, or any of the kind of damage mentioned.

COMMENT 9: The EIR addresses comprehensively the effect of visitors on the community. The EIR contains Section 5.9 "Public Safety" beginning at page 126 of the EIR. Although the concerns regarding public safety in the area of the facilities are not reviewable under CEQA unless it can

be shown to result in direct or indirect physical effects to the environment, the Environmental Impact Report was determined by the County to be the best document to comprehensively disseminate information concerning public safety with respect to released inmates and visitors.

It must be remembered that there is a distinction made in CEQA between physical environmental issues and mere planning questions which have only a tangential relationship to environmental issues. The reader is referred to the overview preceding the Responses to Comments section concerning the role of social and economic effect consideration in CEQA.

Furthermore, the fear of irregular activities is not a significant effect under CEQA. The Environmental Impact Report provides substantial evidence that there is no relationship between increased crime in communities surrounding jails and released inmates or their visitors. Not only were all three County jails studied with respect to this issue, a footnote on page 131 refers to a communication with the Baltimore County Department of Corrections with respect to their detention facility. As reported in prior EIRs, this conclusion is not surprising, in that visitors to inmates are highly regulated within the jail system and generally return to their homes or places of business after the visit. In a similar manner, released inmates leave the jail area promptly.

More importantly, although the comment asserts that the EIR does not address the impact of visitors on the communities and claims that there will be "little distinction between the people in the prison and those coming into our communities to visit and meet with the inmates," no evidence for this proposition is presented. In view of the large number of inmates who matriculate through the Orange County jail system, there would be an enormous number of people (visitors) who would fall into this commentor's definition that visitors are as "bad" as the people in the jail. There is no evidence to support this view.

COMMENT 10: The EIR Project Description describes each and every facility that is planned at the 100-acre Musick site at the present time. There is no reason to expect this project description will change in the foreseeable future. With respect to the number of inmates proposed for this facility, contrary to the commentor's remarks, the number of inmates originally forecast at the facility has been *reduced* from 7,680 as reported in the Notice of Preparation and associated Initial Study in June 1996, to 7,584 inmates in the EIR Project Description. 7,584 inmates represents the absolute maximum population of inmates based on a geometric maximum. Only in short-term emergencies can an additional 384 inmates

be accommodated. In other words, the design of the facility will not permanently accommodate more than 7,584 inmates. Therefore, the number of inmates in the facility is limited by the actual geometry of the facility, and cannot be increased without further environmental documentation and a change in design.

COMMENT 11: Please see the response to Comment 9 for this letter. The Sheriff of Orange County is unable from a constitutional basis to hold inmates because they do not have transportation or do not have money for transportation when they are ready for release. This has been a subject of challenge for the Sheriff's Department at times when the Sheriff's Department used to attempt to hold inmates until they had a ride or demonstrated that they had the financial means to leave the jail area and make their way home. Therefore, any proposal to limit the freedom of released inmates based on their transportation needs is not constitutional from the County's perspective and is therefore legally infeasible.

However, inmates generally know when they are going to be released or are advised when they are going to be released, and the jail has phones so they can call family members or friends for rides. This is precisely the approach in the Intake and Release Center, in Santa Ana and a similar release center would be accommodated at the Musick facility. Therefore, to the extent legally possible to do so, the County and the Sheriff have made accommodations for inmates to facilitate their transportation needs upon release.

COMMENT 12: Contrary to the substance of this comment, the potential for inmate escapes through catastrophic events (such as earthquakes, fires, riots) is specifically discussed in the Environmental Impact Report at pages 131 and 132. In summary, the EIR reports that jail buildings are built in accordance with the highest possible construction standards because the inmates are incarcerated. The EIR explains that the 10-foot fence will remain around the property, in addition to the secure perimeter of the jail building itself, plus the first defense fence between the buildings. With respect to the sworn personnel working in the jail system, the jail design, as explained in the EIR, facilitates such safety because it is easier for jail personnel to secure prisoners from escape because of the maximum security housing arrangement within the buildings. Therefore, the EIR completely addresses this aspect as to 7,584 inmates.

COMMENT 13: The EIR specifically discusses economic effects of the project at Section 5.12, noting that economic or social effects of the project are not reviewable under CEQA unless a chain of cause-and-effect from a proposed decision on a project through anticipated economic or social changes from the project will in turn cause physical changes. This is not

shown in this case as evidenced by extensive study by a highly qualified economic analyst. Please see the further response in the Foreword of this Responses to Comments document regarding social and economic effects.

It is noteworthy that the entire Orange County area has undergone a depression in home values over the past several years. This has been exacerbated in the nearby Lake Forest area by other events, such as the announcement of the base closure (precipitating home sales by Marine Corps personnel and employees at the Marine Corps Air Station who may live in the area). Whether a buyer decides not to purchase a home in an area because of the potential for this jail to be expanded is not an issue relating to the physical environment.

COMMENT 14: This is an expression of opinion and opposition to the project, which has been responded to in the EIR and by the County in this Responses to Comment, primarily with respect to this letter in response to Comment 9 and Comment 11, as well as the overview of social and economic effects in the Foreword to the Responses to Comments. No evidence is presented in this comment, other than the commentor's uncorroborated opinion, to support the conclusions presented.

COMMENT 15: A total of 45 days was provided for review of this EIR, even though the emergency situation for jails in Orange County could have justified a shortened review period under CEQA to 30 days. Therefore, it is incorrect to state that there has been insufficient time to review the validity of the EIR.

COMMENT 16: It is not known what is meant by this comment. There is insufficient information provided in the comment to present any meaningful response. The EIR for this project has not been prepared "merely *[as]* as formality" and does in fact evaluate "true environmental impacts on those affected by this project." However, it must again be stated that CEQA is not a substitute for the entire decision-making process, but is a law designed to address and give detailed review to that aspect of the decision-making process that would affect the physical environment. Consideration such as public opposition, fear of loss of property values or fears of public safety are issues that are better addressed to the overall decision-making process in a representative republic and not to the environmental impact report process.

Although this position on the County's part is clearly justified under state law, the County did accept the invitation presented in the CEQA Guidelines at §15131: "economic or social information ... may be included in an EIR or may be presented in whatever form the agency

desires." Because the EIR is sometimes the only document that a commentor might read in connection with a project, the County believed this was the best place to fulfill the important public information goals of CEQA, even though it is clear — and was clear at the time of the Initial Study based on prior studies and substantial information — that no adverse physical environmental effect would result from alleged social effects or economic effects.

COMMENT 17: As the EIR states, implementation of the proposed Musick facility is not the last jail that will be built in Orange County. If the Musick facility is fully implemented together with the remaining approvals in the jail system, this will only answer the need for jail beds to the year 2006. Therefore, the implementation of the Musick facility proposal has no effect on other project options for the Marine base to the extent of the imagination. The EIR clearly addresses the effect on the uses presented in the Reuse Plan for the base property, such as but not limited to the aviation program proposed, the NCCP program proposed, and height limitations. In addition, the Reuse EIR fully considers the effect of the jail being implemented and the effect on its plan. The jail is a construction level document and the Reuse Plan is a policy level document; therefore, there is less information of precision on the Reuse Plan than there is on the jail expansion. Nonetheless, the relative size of both properties, their proximity, and land use considerations have all been taken into consideration in the jail EIR. There is no effect on "other uses on the remaining El Toro base property."

COMMENT 18: The EIR specifically evaluates hazardous materials with respect to both the on-site condition and the off-site condition. At page 187 of the EIR, the investigations of the Department of the Navy regarding El Toro have been described. The remediation begins in 1997 and the small area of the Musick Jail facility at the extreme northwesterly corner of the property is actually in the right-of-way for future Alton Parkway and has no effect on the implementation of the jail. There is no effect of a vote on the jail proposal before the Marines complete their clean-up project, because the obligations imposed by law upon the Department of the Navy are not changed by that action.

COMMENT 19: This comment is incorrect. The EIR does include information concerning the recommended conveyance of 40 acres of agricultural land on the El Toro Marine Base to the Sheriff for agricultural purposes (DEIR 564, pages 58 and 218). The recommended reconveyance has no relationship to the proposed jail expansion since it is necessary, irrespective of the jail expansion. The Sheriff's Department saves the County over \$500,000 annually in the existing jail system by virtue of the agricultural activities undertaken on the Musick Jail site. However, additional agricultural

acreage would provide even more money for crop production and other agricultural activities, allowing even greater cost savings. The request of the Sheriff's Department for this reconveyance was submitted before the actual commencement of the EIR for this project, further demonstrating that the land for agricultural purposes is needed irrespective of the expansion of the jail. With respect to the restrictions to be placed on the conveyed land once the land is received from the federal government, the conveyance is administered by the County as the federally designated Local Redevelopment Authority and is a use-specific conveyance. No opportunity for expansion of the Musick Jail is currently provided for in that conveyance.

COMMENT 20: This is an expression of opinion on the part of the commentor and raises no specific environmental issues.

**Response to letter dated September 28, 1996
from Marcel J. Fernandez, Chairman of J.A.M.**

COMMENT 1: This is an expression of opinion of the commentor and presents no environmental issue.

COMMENT 2: The Environmental Impact Report considers at length the location of a County jail facility at MCAS-El Toro (DEIR, pages 211 and 212). This alternative is not specifically rejected, but rather indicated as premature due to the Local Redevelopment Authority indicating it would not recommend a conveyance of base land for a jail. Because of the letter of the Local Redevelopment Authority in response to the 250-acre site requested by the Sheriff's Department for a jail, it is not known whether a smaller site would have been more attractive. However, given the basis for the LRA's rejection of the request (focus on producing revenue from base land) it would appear to follow that the size of the request was not the issue. The EIR specifically observes that the Musick Jail expansion is not the last expansion the County will need.

The feasibility of this alternative is questionable for the same reasons the location of any facility on the MCAS-El Toro land was questionable in the EIR. Given the urgent need to bring on jail beds, and the fact that any land on the Reuse Plan area would not be available until the Marines no longer had control of the property (presumably July 1999 at the very earliest) no construction could commence until 1999. This would bring the jail expansion on line significantly later than can be achieved on the Musick Jail site. This delay is in conflict with the project goals and objectives and the urgent need for the expansion of the jail system.

With respect to the feasibility of the 153±-acre site, the following can be stated. Further, the suggested land is planned for the Marshburn Retarding Basin in part, and is location of the main access road to the airport terminal in Alternative A of the Reuse Plan. The site is also shown in the RPZ or "runway protection zone". The retarding basin is still a feature of Plans B and C for the Reuse Plan.

Again, the EIR describes the constraints with respect to the Musick Jail site being traded or sold. In the "Alternatives" section beginning at page 209 there is an extensive description of the problems inherent in trading or selling the Musick site. Furthermore, this trade could not be effectuated until 1999, even if the Local Redevelopment Authority and the Board of Supervisors agree that a trade is in the best interest. Following the trade, the County could commence construction, but this would be at least two years after the point where the County can

commence construction on the Musick site. Therefore, this alternative is not considered feasible. Furthermore, this alternative is virtually identical to the idea of locating jail facilities at the MCAS El Toro (DEIR 564, page 211) for selling/trading the Musick site for another site (DEIR 564). It is understandable why the commentor would not have had some of the information concerning the constraints of the site at Sand Canyon and Irvine Boulevard, since the assessors parcel number given would not have shown any of these constraints on the parcel itself.

COMMENT 3: Please see the social and economic effects discussion in the Foreword to this Responses to Comments for a general response to this entire issue of whether economic effects are reviewable under CEQA.

It is a general rule that property valuation issues are not reviewable under CEQA. Environmental protection acts are not designed to protect against a decline in the commercial value of property adjacent to a public project, but are intended to ensure consideration of qualitative environmental factors. The California Environmental Quality Act specifically is to be interpreted to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. Courts have consistently stated that the only time that economic effects can be used in CEQA to address environmental actions is when it can be shown that either as a primary or secondary effect, some physical environmental effect will result. EIRs are not required to speculate about possible secondary environmental consequences which might result from long-term economic or social changes where these are not foreseeable. The jail has been in existence at this site for quite some time. Persons have bought and sold property, there have been escapes from the jail, and in general a very robust public debate was held on the jail in 1986. At public meetings on this project, witnesses have testified that disclosures are presented regarding this jail. The County General Plan has designated the Musick Jail property as institutional with no constraint on its further development for a number of years. The home values in Lake Forest may be reducing for a number of reasons. In fact, during the study for this Environmental Impact Report, it was found that at the time of announcement for the Musick Jail expansion, home values were already down and have not fallen since that point in time.

However, even if there is an economic effect to home values or the ability of real estate brokers to sell property as a result of the jail expansion, this is an issue which is not reviewable under CEQA unless it can be shown it will have a physical environmental impact. It must be shown with a certain degree of certainty (short of sheer speculation) that there will be a physical effect that will be adverse to the environment as

a result of the economic change. A mere diminution in value of property in the area is not an example of such an environmental effect.

COMMENT 4: Please see the social and economic impacts discussion in the Foreword to this Response to Comments.

COMMENT 5: Please see the response to Comment 3 herein and the social and economic effects discussion in the Foreword to this Responses to Comments.

COMMENT 6: Please see the Social and Economic Impacts discussion in the Foreword to these Responses to Comments. The preparer of the economic report presented for this EIR used two alternative hypotheses and four tests to determine whether relative values had changed. Contrary to the commentor's remark, home sales were examined to help act as a controls. Contrary to the commentor's assertion that no sales were reported in Serrano Park, there was a sale reported in Serrano Park on the street on which the commentor lives which occurred in July of 1995, for the preannouncement period. The fact that there were no sales to examine in the post-announcement period is a function of the data itself. However, substantial post-announcement sales were identified in the vicinity and tend to show no significant economic effect.

People make decisions to move to or from an area based on a very large variety of factors. Also, sale prices would be dictated by normal rules of supply and demand. The closure of the base and the relocation of the staff on the base — some of which has been in the last year — would place a large number of homes on the market. Because of the competition among these homes, housing prices would be expected to drop.

Nonetheless, whether housing prices have dropped or not due to any factors within the control of the County, this is still a general decision-making issue and not an issue for the California Environmental Quality Act.

COMMENT 7: Please see the Foreword to this Response to Comments document, "Social and Economic Effects".

COMMENT 8: Please see the Foreword to this Response to Comments document, "Social and Economic Effects".

COMMENT 9: Please see response to the letter from the South Orange County Association of Realtors.

- COMMENT 10: Comment so noted.
- COMMENT 11: This is an expression of an uncorroborated opinion on behalf of the commentor, and raises no significant environmental issues. The selection of the Musick Jail site for expansion is not a sudden decision; as noted in the EIR, the jail site has been considered for expansion for many years, most recently in the 1992 Short Term Jail Solutions Report, the 1992 Grand Jury Report, and the Theo Lacy Jail Expansion EIR.
- COMMENT 12: It is not known what this comment pertains to specifically. The EIR contains a history of the Musick facility expansion considered in 1986. That expansion plan did not fail but was rather approved by the Board of Supervisors. The plan was, however, deferred in favor of Gypsum Canyon.
- COMMENT 13: This is an uncorroborated opinion and contains no evidence of conflict of interest merely because the EIR was prepared by the same consultant as the EIR for the Theo Lacy Branch Jail Expansion. A consultant to the County acts under contract to the County, and the EIR is reviewed by County professional staff, who exercise their independent judgement as to the contents of the EIR. As noted by the Board of Supervisors in connection with the award of this contract, the jail expansion requires an understanding on the part of the consultant of jail operations and jail characteristics so that an adequate EIR can be prepared, which is justification for sole source contracting under County policy guidelines.
- COMMENT 14: The EIR observes on page 133 that the public's fears of the County jail facilities are often derived from film media portrayal of state and federal prisons as opposed to county jail facilities. This is an opinion held by most of the studies recited in this EIR and in other EIRs prepared by the County relating to the public's perception of jails.
- COMMENT 15: No detail is provided to substantiate the commentor's remark. The Bake Parkway traffic has not only been shown in the EIR based on modeling but was confirmed by physical counts taken prior to the preparation of the traffic study. Therefore, the Bake Parkway traffic is correctly stated in the EIR.
- COMMENT 16: This is an expression of opinion on behalf of the commentor and does not provide any evidence of bias or misinformation.
- COMMENT 17: Six months may be a "grossly inadequate" time to study the issue of jail expansion and if that were the case, this comment might be well taken. However, the County has spent the better part of 15 years studying expansion opportunities in the jail and has produced thousands of pages

of documentation concerning this issue. This was even acknowledged in the 1992 Grand Jury Report.

Six months is an entirely feasible period of time in which to prepare and circulate an EIR for a project of this type. The site on which the Musick Jail expansion is to be located has no redeeming environmental value in and of itself and does not affect physical environmental values in any way. Even though this was known to be the case at the time of the Notice of Preparation, the County chose to prepare an Environmental Impact Report in an abundance of caution and to promote public information on the jail expansion. To further promote public participation in the environmental process, the County held the following meetings, which it was clearly not obligated to do under the California Environmental Quality Act:

- Scoping Meeting - July 8, 1996
- Public Information Meeting, Lake Forest - September 24, 1996
- Public Information Meeting, Irvine - September 25, 1996

These meetings allowed the public to hear presentations on the process used to comment on an EIR and receive information on the public meetings upcoming at the Planning Commission and Board of Supervisors on this issue. The scoping meeting also afforded the public an opportunity to describe verbally what the public wanted to see studied in the Environmental Impact Report. A considerable part of the County's acquiescence to including economic information and social impact (public safety) information in this EIR at all was in deference to the comments at the scoping meeting. The EIR presents a comprehensive and thorough study of the issues from an unbiased viewpoint, supported by substantial evidence.

COMMENT 18: The EIR does in fact address the cumulative impact of the jail and the airport taken together, as does the Draft EIR for the Reuse Plan. Please see the response to Comment 1 to the letter from Orange County Transportation Authority on this issue, as well as the cumulative effects discussion in the Foreword to this Responses to Comments.

COMMENT 19: As explained in social and economic impacts discussion in the Foreword to this Responses to Comments, as well as in response to Comments 4, 5, 6, 7, and 8 in this letter, as well as comments in other letters (i.e., Grisafe, Bowman, and Gash), the alleged diminution of property values in Lake Forest is not an issue reviewable under the California Environmental Quality Act. Furthermore, even if actual diminution in property values resulted from the project's implementation, the County

is aware of no legal theory under which it would be obligated to compensate property owners.

COMMENT 20: CEQA makes no provision considering the loss of income by realtors that list and sell homes. Similarly, CEQA makes no provision for any alleged economic effect or inability to attract new businesses and residents, or losses in property tax revenue by a decline in property values, or locational preference for property purchasers considering the City of Lake Forest. That does not mean that these are not issues that are a part of the normal governmental decision-making process; it simply means that they are not issues under the CEQA process.

COMMENT 21: This is an expression of opinion by the commentor and raises no environmental issue.

COMMENT 22: This is an expression of opinion by the commentor unaccompanied by evidence in support and raises no environmental issue.

**Response to letter dated October 3, 1996
from Irvine Ranch Water District**

COMMENT 1: Comment so noted. At the time construction drawings are commenced for the property, coordination shall occur with several agencies, including the Irvine Ranch Water District. At that time, a system with connections at either end of the property will be considered.

COMMENT 2: The use of non-potable water (including reclaimed water) throughout the Southern California area is an important attribute in the reduction for claims for water demand. At this time, given the fact that the agricultural uses both for the expansion and for the agricultural reconveyances on the reuse land have not been approved by the Board of Supervisors, it is premature to state anything but a commitment to work with IRWD regarding the non-potable water issue. Non-potable water saves a great deal of money for the jail, and it is understood in discussions with the IRWD that non-potable water (including reclaimed water) as generated by IRWD can even be used on crops. The County agrees that these sources are likely to become very viable sources in the future. It is assumed that the mitigation measure proposed by IRWD (see response to Comment 4 below) will provide an excellent opportunity to delineate exactly where such non-potable connections would be best implemented from the standpoint of both the IRWD and the Orange County Sheriff's Department.

COMMENT 3: The comment in the EIR that the improvements to wastewater facilities are needed irrespective of jail expansion is simply a recognition of the ongoing studies in the area for the Reuse Plan and the Portola Hills Proposal. The EIR does not intend to commit IRWD to any particular course of action, and it is recognized that it is solely within the determination of IRWD whether a diversion is warranted and how sewer service will be addressed in the future. However, it is also correct to state that it is premature at this time to consider exactly where the expansion or new lines will take place precisely because this decision is within the control of IRWD, which is preparing studies and will continue to prepare studies to address this issue. Therefore, the exact location or type of expansion which might be necessary (or might not be necessary depending on the approach taken by IRWD) is unforeseeable at this time.

However, the County of Orange concurs that if and when such an expansion is needed, the County will participate in a fair share basis for the expansion of the jail. It is also understood that the County will pay

for use of capacity in existing sewers as well as acquiring treatment and disposal capacity.

An errata page in the Final EIR will correct the EIR to conform it to the technical study. The technical study is accurate in that 2,850 inmates can be accommodated in a wastewater collection system. The 3,840 inmates stated in the EIR is a typographical error which will be corrected. The overall sense of the statements in the EIR is still true — that is, there is a point beyond which it can be foreseen at this time that something with IRWD will need to occur with respect to wastewater capacity with the jail. However, so many events are ongoing in the area, together with studies by IRWD, that it is not possible at this time to forecast exactly what form these revisions will take. Therefore, continuing work between the County and IRWD over the years is the appropriate approach for this issue.

COMMENT 4: The County of Orange *accepts* the IRWD's request for the specific mitigation measures recited in this comment. These will be added to the Environmental Impact Report and to the Resolution concerning this project.

Response to letter dated October 3, 1996
from the City of Irvine

- COMMENT 1: Contrary to the commentor's assertion, the EIR comprehensively and clearly analyzes in a serious fashion alternatives to the proposed project and concludes that the Musick Jail site is the only project that can both achieve project goals and objectives to a significant degree and avoid significant environmental effects not found at the Musick Jail site. Both of these objectives are important considerations under CEQA. The project alternatives which have been presented do not achieve the objectives, and each alternative is itemized to substantiate this claim.
- COMMENT 2: Comment so noted. The comment does not raise any environmental issues.
- COMMENT 3: Comment so noted. The response to the comments from the City of Lake Forest will be found in the response to the letter from the City of Lake Forest which is incorporated by reference into the City of Irvine comments.
- COMMENT 4: Contrary to the commentor's statements, no justification for the jail is offered in this section solely on the basis that the jail will accommodate only arrests within a five- and ten-mile area of the Musick Jail or within South Court jurisdiction. What is shown, and was an issue identified at the Scoping Meeting comments, is that the south county area does contribute in a significant way to the demand for beds in the Orange County jail system. The accommodation of beds on this site is a function of its *size and county ownership*, and not solely a profile of the number of beds needed the area within five and ten miles. Over the years, the 25% of bookings attributable to the south county and/or south municipal area has been accommodated at jails in Orange and Santa Ana. It is infeasible from both an operational and a public utility standpoint to operate a jail solely as a community facility *unless* the jail is operated by a City and that City keeps all of its own misdemeanants and felons throughout arraignment, trial and sentencing.
- COMMENT 5: This comment is incorrect. As clearly stated in the EIR the 7,584 inmates is an *absolute maximum* (DEIR 564, page 35). In a short-term emergency of 60 days or less, an additional 384 inmates could be held at the facility. These are rare events. Therefore, it is incorrect to simply multiply the 7,584 inmate number by 130% to arrive at the number presented in the letter. The EIR has already analyzed the worst-case condition and has stated this. Absent the emergency condition, because of the size and geometry of the buildings, only a maximum of 7,584

inmates can be accommodated except under short-term emergency conditions. Therefore, the EIR has analyzed the worst case.

COMMENT 6: The EIR clearly identifies that the facility can be built all at once or in phases (DEIR 564, page 50) and further identifies the approximate number of beds that could be built with the anticipated funding from the November 1996 bond measure if this bond measure passes. DEIR 564, in discussions on wastewater treatment (and as corrected by the errata page to be included in the Final EIR), indicates that due to the capacity in the existing wastewater collection system up to 2,850 inmates can be accommodated prior to the year 2000 without further wastewater system improvements (DEIR 564, page 180). However, as noted in the letter on the Draft EIR written by IRWD and dated October 3, 1996, these studies are underway and are independent of project considerations larger and more complicated than those of the jail. Therefore, it could be said at the present time that up to 2,850 beds could be built and occupied at the jail prior to 2000 based on future wastewater capacity being brought on line. As indicated in the response to the letter from IRWD, the County of Orange has committed to be a full partner to the extent of fair share in this new waste water capacity.

Funding for jail facilities and the approval of sites for the expansion of jail facilities have been the two critical elements impeding the supply of jail beds in the County system. The absence of certified Final EIRs for County jail expansion projects has acted as a complete impediment to serious consideration of County projects for state funding. However, with the certification of this EIR and the certification last year of the Theo Lacy Expansion EIR, the County will be in a position to aggressively seek funding for jail expansion. Beyond the November 1996 bond measure, no one can predict where this funding will derive from. It could derive from local sources or it could derive from state sources. However, the critical dimension in the ability to be seriously considered for funding is a certified EIR for the project at a particular size. Therefore, the County will aggressively pursue funding for the jail as funding becomes available and in the amount that is available.

With respect to the other facilities on the site other than the jail (the Interim Care Facility and the Sheriff's Southeast Station) the following can be stated. The Sheriff's southeast station is funded by Mello-Roos funds from development projects as well as County funding. Normally, Mello-Roos funding for the station includes the acquisition of a site, which constitutes part of the expense of construction and bringing the facility on line. In this case, the County is offering its own land for the Sheriff's Southeast Station, meaning that a smaller amount of fees are necessary to bring this facility on line. It is highly likely that irrespective

of whether the jail expansion is approved or funded, the Sheriff's Southeast Station will be approved and constructed.

Less certainty is attached to the Interim Care Facility, as discussed in depth in the EIR project description. The motivation for relocating the Interim Care Facility for this site is that fact that the Interim Care Facility is scheduled for demolition in the first phase of the construction of the Theo Lacy expansion. The Theo Lacy Jail site is so small (11 acres) in comparison to the Musick site that expansion of the jail facility actually requires the Interim Care Facility to be demolished. Since it must be demolished, the desire is to relocate it to another piece of County property so that it can continue its therapeutic function. At the present time, the Interim Care Facility is seeking sites in the Tustin Reuse Plan and the El Toro Reuse Plan area as well as the Musick Jail area. As described in the EIR project description (page 38), there may be licensing problems with the state for the ICF due to the proximity of the jail, and that the Musick site is not optimal in any event due to the distance from probation officers and social workers. Therefore, the ICF is planned for the construction in the first building phase of the jail if it is demolished at Theo Lacy by that time, but it may never be located at the facility if a superior site is located and permitted by the state. Furthermore, the LRA staff is recommending approval of land at El Toro for the ICF.

COMMENT 7: Hydraulic calculations are not necessary for this site at this point. Hydraulic calculations are typically provided when the grading permit is prepared. In this case, the hydraulic calculations can easily be calculated based on the conceptual grading as well as the comparison of pervious and impervious surfaces. As can be seen from the analysis in the EIR, the increase in impervious surfaces is insignificant from a hydrology point of view.

COMMENT 8: This comment is incorrect. The site lines for the cross sections in exhibit 15 show buildings in Pacific Commercentre at both the 35 foot and 50 foot heights. Because these buildings are not constructed, the buildings are shown by dash-dot line. The site line from residential is shown traversing through the site line. The photographs assist the reader in understanding that it is very difficult to see this site from Serrano Park or Rancho Serrano in any event because of the heavy line of trees along the site. The buildings on the jail property would be similarly screened. Therefore the comment is incorrect in assuming that building heights of 20 to 30 feet would open views of the jail buildings that would otherwise not be seen due to the intervening building height. Therefore there are no changes to this exhibit necessary to depict the commentors requested suggestion.

COMMENT 9: The City of Irvine municipal code does not apply to the subject property, regardless of whether it is annexed to the City of Irvine. As a County property, City planning, zoning and General Plan designations do not apply to the property so long as its use is public use. However, new chain link fencing is not proposed in any event where it would be visible from public streets. A mitigation measure in this case is not accepted because chain link fencing would not be seen from public street in any event (notably Alton Parkway) and is not a regulation which could be enforced in the area in any event.

COMMENT 10: Consultation with the NCCP coordinator was undertaken during the preparation of this EIR. The concentration of gnatcatchers in the area called the "severed triangle" is normal for that area. The NCCP habitat area to the northeast of the jail site is buffered by a continuous barrier of disturbed exotic vegetation in an approximate 300-foot building setback (DEIR 564, page 125). Security lighting is directed at the buildings and not toward the hills, and under the Reuse Plan reconveyance for the agricultural property, the property north of the jail (between the coastal sage scrub territory and the jail site) would be used for crops with no lighting. Gnatcatchers have been found to live in highly urbanized areas and not be affected. The County and the City of Irvine routinely grant grading permits for construction activities for private development projects and road development projects in areas in closer proximity to gnatcatcher habitat than the jail construction would be.

COMMENT 11: The County's non-aviation Alternative C and the relationship to the jail are addressed in the Reuse Plan EIR. Specifically, Alternative C has the least impact on the Musick Jail, in that height restrictions for jail property would not be necessary if there were no aviation activity at the site. Traffic for Alternative C as reported in the Reuse EIR is higher than either aviation alternatives; however, as stated previously (see response to letter from OCTA) the jail is such a small part of the traffic that its effect is imperceptible in any Reuse Plan traffic scenario. The aesthetics portion of the EIR provides a mitigation measure for the County of Orange to prohibit bondsmen and sexually oriented businesses from the open space institutional and educational institutional areas adjacent to the jail and the County has agreed to this measure in connection with Alternative C as well. Although Exhibit 5.2 of the Reuse Plan EIR is referenced in the jail expansion EIR, the Alternative C proposed land use exhibit also shows open space and institutional in these areas and therefore the discussions remain valid.

COMMENT 12: This comment is incorrect, both in terms of the basis for which an adequate crime study could be done, the assertion that the EIR analysis does not attempt to correlate crime incidents to visitors to a jail facility,

and the fact that intake and release activities do not occur at the Theo Lacy site. These issues will be taken in turn.

The best way to determine if crime rates in an area and the jail are linked is to compare the names of the recently released inmates with crime incidents (arrests) in a community. Without an arrest or a criminal report, the crime incident cannot be evaluated. This was done for released inmates around Santa Ana jail, around Theo Lacy jail, and around Musick Jail. Contrary to the commentators assertion and in spite of the fact that the City of Irvine had in its possession the certified Final EIR for Theo Lacy, there are minimum and medium security inmate releases at Theo Lacy on a daily basis and this is reported in the Final EIR for Theo Lacy.

Similarly, there are minimum, medium, and maximum security releases on a daily basis from the Santa Ana main jail complex, including the Intake and Release Center, the main jail, and the women's jail. The evaluation of the Theo Lacy crime incidents occurred six months before and six months after jail expansion, and there were no criminal incident related to released inmates from that facility. The problem with the shoplifting rate at the urban shopping malls is that many of the shoplifting incidents were perpetrated by minors.

Two factors must be taken into account with respect to this observation. First, the Juvenile Justice Center is located in the same Manchester Complex as is the Theo Lacy Jail, and therefore it is reasonable to expect that the juvenile crime rate in the mall is probably related to the Juvenile Justice Center as opposed to visitors to Theo Lacy. Secondly, the Santa Ana Main Jail which exists in an urban area and is a release point for inmates of all classification. In this case, in a one-year study, there was only one criminal incident related to a recently released inmate and this inmate lived within two and one-half miles of the release point. Therefore it cannot be stated with certainty whether the criminal event involving this inmate related to the inmate's place of residence or the inmate's release from the jail.

With respect to the Musick facility, over 58,000 visitor records for a one-year period were reviewed and correlated to criminal arrest information for adults provided by both the City's of Irvine and the Sheriff's Department for the City of Lake Forest. There was no correlation between visitors and criminal events. Further, a response to the EIR consultant's request from Irvine Police Department for preparation of the Environmental Impact Report for this jail expansion dated August 6, 1996 indicates "This project is not expected to impact normal services provided by the Irvine Police Department because the project falls within

the Sheriff's purview. To that end, no mitigation measures are necessary at present." Further, the letter states "A cursory review of crime statistics in the project area have not yielded any significant problems either associated with the facility or the inmate's visitors."

The County of Orange believes that substantial evidence is presented in the EIR regarding crime rates in spite of the fact that CEQA would not require this information to be presented at all. In fact, in case law interpreting CEQA, it has been determined that a claim of increased crime problems from a project is not a proper subject of CEQA inquiry (*Baird v. the County of Contra Costa*) and another court has upheld a project against a claim of crime increases in an affected area even in the face of evidence that the type of facility increases crime in an area, finding that this was not an issue germane to CEQA (*City of Pasadena v. State of California*)

Finally, in the County of Orange, the court has opined that "the social characteristics of perspective customers of the agency [proposing a new unemployment insurance office] are not an element for consideration in the determination of whether an [EIR] will be necessary" (*City of Orange v. Valenti*)

These court cases are consonant with CEQA principles as expressed in the California Environmental Quality Act Guidelines with respect to the social effects of a project. These effects need not be analyzed in the EIR in any greater detail than necessary to trace if there is a chain of cause and effect (CEQA Guidelines §15132) and that focus should be on whether there are physical changes as a result. Therefore, the County has provided this crime information in spite of the fact that it would not be obligated to do so under CEQA in order to demonstrate that there is no evidence to support any finding of increased criminal effect as a result of the expansion of this facility.

Nor does this comment provide any evidence of such an impact. In view of the substantial evidence presented in the EIR, and in the absence of contravening evidence presented by the commentor, no further response need be made to this issue.

COMMENT 13: The EIR consistently refers to the Santa Ana facility as the "Main Jail Complex/IRC in Santa Ana." The Main Jail Complex in Santa Ana consists of the main men's jail, the women's jail, and the Intake and Release Center. Escape statistics provided for the main jail complex/IRC in Santa Ana relate to all three facilities.

COMMENT 14: The County of Orange disagrees with this comment. Escape statistics from a previously unfenced minimum security Musick Jail are highly probative in determining the efficacy of the recently installed (March 1996) ten foot perimeter fence for the complex, and the fact that there has not been a single escape since that time.

COMMENT 15: The County of Orange is aware of the recent escape from a jail bus in Santa Ana. This event occurred after distribution of the Draft EIR. The escapee was a minimum security inmate housed at Musick who was returning from a County work crew. Minimum security inmates transported by bus are not transported presently in the armored type of bus that higher classification inmates are transported in. Notwithstanding this fact, this escape constitutes the first escape ever from a bus transporting inmates from any jail to any other destination.

Nonetheless, the County Sheriff's Department is currently considering placing the same barred windows and security devices on buses transporting minimum security inmates for work crews. The escaped inmate was apprehended less than seven hours after the escape at his girlfriend's house in Santa Ana and is now housed in the Santa Ana main jail complex.

COMMENT 16: This mitigation measure is *accepted*.

COMMENT 17: As discussed in Sections 5.10.1.a, b, and c., the proposed project is located in an unincorporated area of the County; therefore, the County of Orange traffic study methodology was followed. In that regard, the latest County of Orange traffic model (OCTAM 2.7) was utilized as the basis for the traffic projections. While the forecasts from that model are not identical with those in ETAM, the incremental impact of the jail traffic as identified in the EIR are the same under either model. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 18: The criteria established for the Musick Facility Expansion DEIR traffic analysis was that existing traffic counts in the analysis area must be less than a year old. The existing ADT volumes on Bake Parkway were counted in October 1995. Various ADT counts on Bake Parkway have been quoted which range from 38,000 ADT to 47,000 ADT since the opening of the Bake Parkway/I-5 freeway ramps. During the past six months, conditions along Bake Parkway have been in a state of transition as the I-5/I-405 ramps in the Lake Forest area have been opened and closed in various combinations as part of Caltrans freeway improvements, which have led to fluctuations in the traffic volumes along the arterials which provide access to the freeway.

In any case, the capacity of Bake Parkway is 72,000 ADT from I-5 to Muirlands Boulevard and 54,000 ADT north of Muirlands Boulevard, which is sufficient to accommodate the existing and projected volumes as shown in Tables 24 and 26 of the DEIR. Note that the projected volumes are derived from traffic model data and are not dependant on the traffic counts.

The existing intersection volumes along Bake Parkway were counted in August 1996 after the opening of the Bake Parkway ramps. The intersection capacity utilization (ICU) values on Bake Parkway indicate that the intersections are operating at acceptable levels of service during the AM and PM peak hours, with the exceptions of Bake Parkway and Jeronimo Road in the AM peak hour and Bake Parkway and Irvine Boulevard/Trabuco Road in the PM peak hour (see Table 20 of the DEIR).

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 19: See Response to Comment 17 above regarding the transportation model.

As discussed in Section 5.10.2.b of the DEIR, the long-range lane configuration in the Musick Facility Expansion for the intersection of Alton Parkway and Jeronimo Road includes dual westbound left-turn lanes, which currently exist. The ITAM Post-2020 lane configuration assumes a single westbound left-turn lane.

At the intersection of Barranca Parkway and Irvine Center Drive, the ITAM Post 2020 lane configuration assumes a single left-turn lane, three through lanes, and a free right-turn lane northbound and southbound on Barranca Parkway. The Musick Facility DEIR traffic study assumes that the existing dual left-turn lanes and right-turn lane northbound and southbound on Barranca Parkway remain and that the roadway is widened to allow three through lanes northbound and southbound.

The lane configuration at the intersection of Bake Parkway and I-5 southbound off-ramp is consistent between ITAM Post-2020 and the Musick Facility Expansion DEIR long-range analysis; however, the orientation of the north-south streets is reversed (i.e., Bake Parkway is considered north-south in the Musick Facility Expansion DEIR, I-5 southbound off-ramp is considered north-south in ITAM).

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 20: Please see cumulative impacts discussion in the Foreword of this Responses to Comments document as well as the response to comment 1 of the Orange County Transportation Authority. It is emphasized again that the jail is approximately 1/100 of any traffic scenario for the Reuse Plan and would literally be lost in the numbers for the Reuse Plan, because the Reuse Plan traffic dominates the entire system. The jail's amount of traffic is simply too small to have any effect whatsoever whether it is in or out of the Reuse Plan model. The manner in which the traffic study was performed is extremely detailed, with updated counts and intersection capacity utilization figures used. Even if the Reuse Plan traffic were added to the model, this would not change the conclusions regarding the scope of the jail's impact.

Contrary to the commentors assertion, the Draft EIR did not state as a basis for using this approach that the "El Toro community Reuse Plan Study has been carried out at a General Plan level of detail." The Draft EIR clearly explains in the "Cumulative Impacts" section at page 218 that the reason for this approach is that the jail is too small a percentage of the overall traffic in the area with or without the Reuse Plan to make any difference in the conclusions. This is completely consistent with CEQA's command that cumulative effects be considered only where significant.

COMMENT 21: Figure 28, Table 21, Table 24 and Table 26 of the DEIR and Figures 1 through 3 of Appendix I (see the following) summarize this information. The comment does not raise an environmental impact issue.

COMMENT 22: The intersection turning movement volumes and lane configurations are included on the ICU calculation sheets in the appendix of the Traffic Study included in Appendix I of the DEIR. The comment does not raise an environmental issue.

COMMENT 23: The Eastern Transportation Corridor (ETC) is assumed to be a toll facility under interim year and long-range conditions. The comment does not raise an environmental issue.

COMMENT 24: The traffic study reflects the County of Orange Master Plan of Arterial Highways (MPAH) arterial designations. The comment does not raise an environmental issue.

COMMENT 25: As shown in Table 25 of the DEIR, the project does not have a measurable interim year impact on the improvements identified in Table II-2 of Appendix I, except the north leg of the Alton Parkway/Irvine Blvd. intersection which is addressed in the project mitigation measures.

As shown in Table 27 of the DEIR, the project does not have a measurable impact on the improvements identified in Table II-2, resulting in additional deficiencies, except at the intersection of Bake Parkway/Jeronimo which is addressed in the project mitigation measures. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 26: Tables 22 and 23 of the DEIR and Table III-1 of the Musick Facility Expansion DEIR traffic study (Appendix I of the DEIR) summarizes the trip generation for buildout of the proposed project, and Table III-2 summarizes the trip generation by Complex. Both tables break the information down into the individual components (i.e., jail staff, inmate transfers, visitors, deliveries, sheriff substation, and ICF). The assumptions utilized in deriving the trip generation for each component are documented in Tables 22 and 23 of the DEIR and the traffic study in Chapter III of Appendix I of the DEIR. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 27: The County of Orange maintains the land use database for OCTAM 2.7. Land use and trip generation summary sheets may be obtained from the County. This comment does not raise an environmental issue. The comment does not raise an environmental issue.

As stated in Chapter III, Page III-3 of Appendix I of the DEIR, the assumption of 1.1 employees per vehicle is based on the current average mode split for Orange County. Currently, the Orange County mode split is 91 percent drive alone, six percent carpool, one percent ride the bus, and two percent bicycle or walk which results in a rate of 1.1 persons per vehicle. In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 28: Please see the discussion of social and economic effects in the Foreword to this Responses to Comments as well as the response to the letter from Marcel Fernandez included in this Responses to Comments. The initial announcement of the jail expansion for the purposes of this years analysis was made on April 23, 1996 and received comprehensive coverage in all major newspapers. CEQA only requires highly attenuated analysis of economic effects in any event and loss of property value is not a physical environmental effect reviewable under CEQA. The commentor is referred to the discussions and the responses previously offered on this issue for a complete picture of the County's viewpoint in this area.

COMMENT 29: *CEQA Guidelines* §15126(d) requires the description of "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." The focus in the *CEQA Guidelines* is on a discussion of alternatives that would avoid or substantially lessen any of the significant effects of the project. The selection of a range of reasonable alternatives is similarly focused.

What is noteworthy about the jail expansion project is from a *CEQA* viewpoint there are no significant effects of the project which have not been mitigated. Nonetheless the County examined 24 alternatives to the project, its location, or its operation to illustrate its comprehensive search for alternatives. Contrary to the comment made here, the environmentally superior alternative is clearly identified in the EIR. Section 7.8 "limit expansion of Musick Jail to complex 1 and supporting facilities" is clearly identified as the environmentally superior alternative (DEIR 564, page 205). The *CEQA Guidelines* provide that the EIR need only identify an environmentally superior alternative among the other alternatives and this has been done.

COMMENT 30: This alternative is reviewable under *CEQA* as a management alternative to the project, particularly in view of the fact that the implementation of various prison facilities in the state has been specifically exempted from *CEQA* by statute (see *CEQA* §§21080.01, 21080.02, 21080.03 and, 21080.07). Clearly the legislature has examined this type of alternative with respect to the *CEQA* process. Furthermore, the 1992 Short Term Jail Solutions Report considered this alternative, but it was rejected by the Board, as explained in the EIR.

COMMENT 31: This comment claims that the EIR relies on rejection of this alternative because of the loss of fill dirt necessary for the construction of Alton Parkway. This is not the case. This was only one factor taken into consideration in this alternative. The real rejection for this alternative is that the actual impacts of this facility would not be reduced by this alternative, and it is unsatisfactory from an operational standpoint to leave any bed in a jail unused simply because an inmate was not apprehended in a particular geographic area. Although the commentor states that "other sources of fill dirt in the area can be made available", other than the Musick site the commentor does not identify these sources. The EIR reports that the project report for the extension of Alton Parkway makes clear that the entire Alton Parkway extension is "dirt poor" and this situation has been exacerbated by the identification of a large portion of the right-of-way through the El Toro Marine Base

as a conservation area for the NCCP. Therefore, the source of fill dirt for the feasibility of the construction of Alton Parkway remains a significant consideration. The commentor does not explain why the objection of the County to this alternative on the basis that it does not provide jail beds is inadequate. The commentor claims that the alternative is workable in combination with other listed alternatives but does not elaborate. Therefore, no further response can be made at this time.

COMMENT 32: The EIR alternatives clearly state the availability of land at other County-owned jail sites. For the commentor's benefit, the expansion at the main jail complex in Santa Ana discussion is found beginning at page 210. As explained elsewhere in the EIR, the Theo Lacy jail has no more land available for expansion. This is stated in the Theo Lacy Final EIR and in the stipulation associated with Theo Lacy and included in the Final EIR provided to the City of Irvine in connection with the review of this project. There are only three jail sites in the entire county that exist at the present time - the Main Jail complex in Santa Ana, the Theo Lacy jail complex in Orange, and the Musick Jail site. The Musick Jail site remains the most under-utilized site in the entire county based on site size. Contrary to the commentor's assertion, the EIR also examines breaking up the jail system into several smaller sites, as well as location of all jail facilities at the five county court house facilities, leasing jail beds outside of the county, encouraging each city to shoulder housing pre-trial and sentenced inmates arrested in that city, and similar means. For example, in the City of Irvine, the alternative to cause each city to shoulder its pre-trial and sentenced inmates would require a jail building of approximately 50-100 beds, based on 1995 booking statistics.

Finally, the idea of selling the Musick site to buy another site (which is not identified by the commentor) is specifically discussed, together with the constraints in achieving this objective. This discussion begins at page 209.

COMMENT 33: The main jail complex in Santa Ana, as reported in Draft EIR 564, already houses maximum security inmates, as does the Theo Lacy jail in Orange. Of the three jail facilities in Orange County, only Musick Jail does not house medium and maximum security inmates. Therefore, seeking to amend the settlement agreement with the City of Orange on the Theo Lacy jail to house maximum security inmates is unnecessary since the agreement with the City of Orange already allows 1,152 maximum security inmates to be housed at that 3,111 inmate facility. The legal infeasibility pointed out in this alternative dealt with the violation of a stipulation and judgment issued by a superior court judge with respect to litigation. Therefore this is not a mere "change in project", but

rather would constitute a violation of the judgment and could subject the County to a possible contempt order. But more importantly, there is no land left at the Theo Lacy facility to construct jail facilities with the associated accessory features. The jail facility is approved for 3,111 inmates in connection with the stipulation and judgement on 11 acres. If a similar number of inmates were placed on an acreage basis at Musick the number would exceed 30,000 inmates. There is simply no further room at the Theo Lacy project to accommodate and operate jail buildings.

The County of Orange strongly disagrees with the comment that the County need not look at needs after the year 2006. The point in raising this issue in the EIR is that there were several comments by the public asserting that the County was focused on the Musick site upon as the ultimate solution to the County's jail overcrowding. This is not the case since this jail, if approved, will only meet bed needs up to the year 2006. At that time, it will in all likelihood be necessary (based on crime trends and the public's desire for incarceration) to expand the jail system further. Therefore this is a very relevant and probative point in the consideration of alternatives.

COMMENT 34: This comment is incorrect. Release of minimum and medium security inmates is completely permitted at the Theo Lacy facility and has been ongoing for several years. Off street bookings are not permitted; however, Booking of court commitments does occur.

As to the remainder of the comment, it has been responded to with respect to comments 12, 13, and 14 of this letter.

COMMENT 35: As explained in connection with the rejection of locating jails at Aliso/Wood Canyons Regional Park (DEIR 564, page 215), there is an interference with the certificates of participation securing regional park lands as well. These lands are identified for specific use (i.e. park) and cannot be used for other uses without leave of the bankruptcy court. A significant feature of the use of the parks and the restriction on land use is due to the bond holders wishing to be assured that the value of the land is not adjusted either way by a change in use.

But even more difficult are the legal issues in regional parks restricting uses. First, to the extent there are state or federal grant's funding non-recreational use can occupy the park without the permission of the granting entity; the state legislature and the Secretary of the Interior, respectively.

Further, even if this obstacle were overcome, the Board of Supervisors would need to hold a hearing to "abandon" the park area to non-recreational use. Any 200 signatures of registered voters can cause the issue to be taken from the decision-making of the Board of Supervisors and submitted to a general election.

Two regional parks exist in or near the City of Irvine, and the County does not interpret this comment as a suggestion on the commentor's part to locate a jail in those regional parks.

COMMENT 36: As this alternative explains and is entitled, the sale of the Musick site is specifically considered. At page 210, first paragraph, the EIR explains that in order to free up the Musick site for sale another site has to be located. This is a feature of the certificates of participation. Therefore, this question is answered in the EIR.

COMMENT 37: The expansion of the main jail complex in Santa Ana is not rejected in total, but is merely a question of timing because of the critical nature of the need to expand the jail system. The County Grand Jury's recommendation of the 11-story buildings is more seriously examined and the comment offers no further evidence supporting the Grand Jury alternative or contradicting the information in the EIR. Fortunately, the County had already prepared an EIR for 10-story buildings at the Katella-Douglas site in Anaheim which allowed an examination of how many inmates could be accommodated on 7 acres. The EIR examines in depth the 12 acres that lie between the existing main jail complex and Bristol Avenue plus the existing County-owned 3 acres where the Sheriff's headquarters and plaza area are located. Notwithstanding all these considerations, only about 3,250 inmates can be accommodated, even when one does not consider the types of support facilities that have to be provided to serve the jail facility. The commentor states that the Grand Jury determined that such an expansion would be feasible on existing county-owned property in Santa Ana and this alternative is considered. However, as also noted in the EIR (Section 7.7, page 202), it was not possible in the course of the preparation of the EIR to obtain any information from the Grand Jury as to why the alternative they proposed would actually allow 3,000 inmates in 11 stories on county-owned land (which only consists of 3 acres), when the county's Katella-Douglas site at 7 acres could only accommodate 1,500 inmates in 10 stories (DEIR 564, page 203). The County believes that it has seriously considered all of these alternatives and generated further alternatives not considered by the Grand Jury in order to examine this issue. However, the County cannot further examine the Grand Jury's conclusion of feasibility with respect to their report without obtaining the data that has been withheld. However, even with this data, a mere examination of the

Katella-Douglas site is ample evidence that this cannot be undertaken to the degree assumed by the Grand Jury.

COMMENT 38: In order to consider this alternative further (multi-story buildings) one would have to consider the closure of the courthouse during the period of construction. Except at Laguna Niguel (the South County Municipal Court House), there is no room at any of the court buildings to conduct both a construction operation and keep the court in session. Secondly, with respect to Laguna Niguel, as explain in the EIR, there is not only insufficient site area but the South County Municipal Courthouse in Laguna Niguel is being relocated to another location yet to be decided by the County. The EIR clearly explains these facts. High rise buildings on small site would also be out of scale for certain areas, such as North Court.

COMMENT 39: Please see response to comment 4 of the letter dated September 25, 1996 from Assemblyman Mickey Conroy, which raises essentially the same point.

COMMENT 40: The commentor does not explain why these alternatives should be considered, nor what "reasonable separation from residential areas" is. CEQA does not require the consideration of alternatives which would constitute an exercise in futility, and requires that the consideration of alternatives be governed by the rule of reason. Essentially, one need not consider alternatives which the project proponent cannot reasonably acquire, control or otherwise have access. After a determination of avoiding or lessening significant environmental impacts, the watchword in the generation of project alternatives in feasibility. The County is completely permitted by CEQA to screen alternatives for preliminary feasibility to determine whether they will simply be eliminated, mentioned in the EIR with an explanation of why they were considered infeasible from the start or provide a traditional alternatives discussion. Furthermore, the release of maximum security inmates at the Intake and Release Center at Santa Ana, and the location of jail facilities at all 5 county courthouse facilities, as well as the remote site outside of county for maximum security inmates, were all considered in the principle alternatives chapter. Therefore, it is not understood what "full consideration" the commentor is seeking.

COMMENT 41: The California Environmental Quality Act only requires consideration of cumulative impacts where they might be significant. It is clear through the analytical discussions in this EIR that cumulative impacts are not significant. Nor does do the CEQA Guidelines (§15130) require that the discussion of cumulative impacts provide as great a detail as is provided to the effect attributable to the project alone.

For a further response, see the Cumulative Impacts discussion in the Foreword to this Response to Comments.

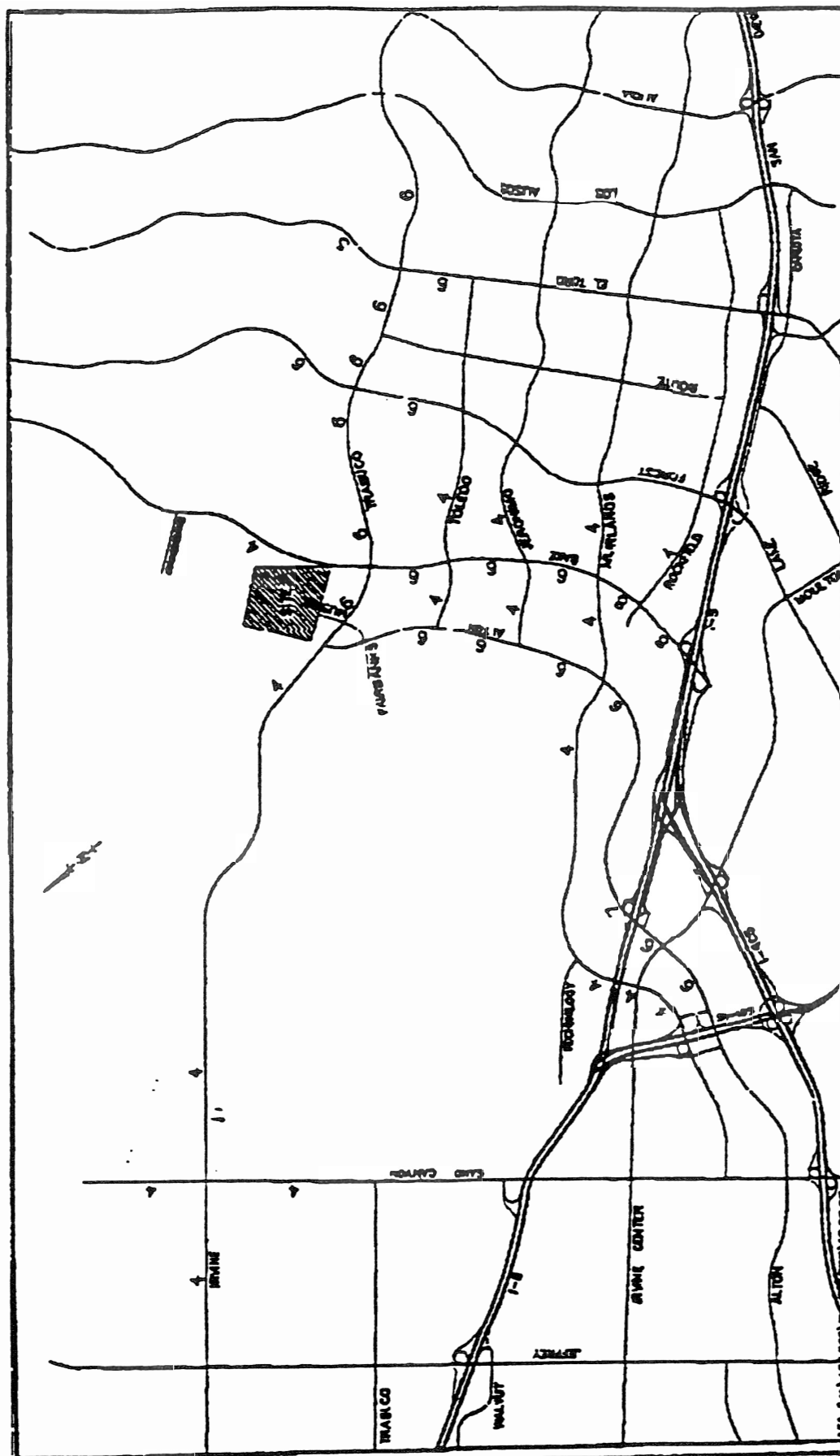


Figure 1
EXISTING MIDBLOCK LANES

LEGEND

X Two-way midblock lanes

**Response to letter dated October 1, 1996
from the City of Anaheim**

COMMENT 1: The County of Orange acknowledges the comments of the City of Anaheim both in their October 1 letter and in the August 8 letter submitted prior to the distribution of the Draft EIR. The County has included the information in the rejection of the Gypsum Canyon alternative provided by the City of Anaheim and concurs in feasibility of this alternative.

Response to letter dated October 4, 1996
from Jim Richert of JAM

- COMMENT 1: This is an expression of opinion on the part of the commentor with which the County does not agree.
- COMMENT 2: The commentor's assertion of the types of land use surrounding the Theo Lacy facility is not correct. Quality residential areas exist within one quarter mile of the Theo Lacy facility, as documented in the Theo Lacy jail EIR. While it is true that there are also commercial and office uses in the vicinity of Theo Lacy, as well as the County's Manchester Complex, this is not a substantial difference from the industrial areas and military base surrounding the Musick Jail from an environmental standpoint. Again, the EIR supports the view that criminal elements will not increase as a result of the expansion of the Musick facility and the increase in classification, but even if this were the case, this would not be an impact germane to the CEQA process as opposed the overall decision-making process.
- COMMENT 3: Contrary to the comment, the EIR does not dispute the City of Lake Forest indication that there will be an additional need for one sergeant and five patrol officers. The EIR simply reports, at page 179, that the City of Lake Forest believes that an additional 24-hour shift will be necessary if the jail expansion is undertaken. Whether this additional jail shift is undertaken is a matter outside of the control of the County of Orange Board of Supervisors, or the Sheriff's Department.
- COMMENT 4: Please see the response to Comment 18 of the City of Irvine. Regarding Bake Parkway traffic volumes, see the response to Comment 18 in the City of Irvine letter dated October 3, 1996.

The existing peak hour intersection volumes on Bake Parkway were counted in August 1996 and therefore, the DEIR includes relevant existing conditions data.

Regarding the El Toro Reuse Plan, see the response to Comment 1 in the OCTA letter dated September 26, 1996.

Per Tables 24 and 26 of the DEIR, Bake Parkway has a capacity of 54,000 ADT between Trabuco Road and Muirlands Boulevard, and a capacity of 72,000 ADT between Muirlands Boulevard and I-5 Freeway. The capacity of Bake Parkway is sufficient to accommodate existing and projected volumes. Therefore, the comment raises no new or additional impacts which would require revision of the Draft EIR.

As stated in the responses above, the Musick Facility Expansion EIR adequately addresses traffic impacts of the proposed project and identifies suitable mitigation measures.

COMMENT 5: The traffic volumes in the EIR and the data are not only valid but have been corroborated by actual counts in the area which agree with the data prepared in the traffic study. These counts were taken immediately before the preparation of the traffic study so that their updated data could be used. They were taken for both links and intersections in the vicinity of the project. See also response to Comment 4 above.

COMMENT 6: Please see the response to the discussion of Social and Economic Effects in the Foreword to the Responses to Comments for a generalized response to the issue of alleged diminution in value of property. This comment is a disagreement on the part of the commentor with the conclusions of the EIR but does not raise any environmental issue.

COMMENT 7: This comment is the position of the commentor. As indicated elsewhere in the Responses to Comments, there was no "rush" to get the Musick EIR approved in time for the November 5 vote. The amount of time provided between the initiation and commencement of this EIR and the meeting at the Board of Supervisors concerning the project (a little under six months) is very common and routine for a project of this size and complexity.

COMMENT 8: This comment questions the recommendation of the staff of the LRA concerning their recommendation for denial of the Sheriff's request for 250 acres at the El Toro Marine base. Notwithstanding this denial, the EIR does consider this alternative. The total base property is 4,700 acres in size and contains ample area to locate a jail. However, determination on the Reuse Plan must be made by the Board of Supervisors prior to any further consideration. This is why this alternative is not completely rejected in the EIR, because over time the County will need even more jail facilities, and land at El Toro may be available for that purpose. However, this will not be known for many years because of the Reuse Planning process. At the present time, the recommendation for denial of the reconveyance by the local redevelopment authority is good evidence that this is not a near term option for the expansion of the jail and is therefore not a feasible alternative due to the inability to meet the basic project objective of bringing jail beds on line on an expedited basis.

COMMENT 9: The EIR gives as much explanation of the Grand Jury Report alternative as was available from public records. The EIR explains that the consideration of this alternative and the background data for

consideration of the alternative was requested, but that these records are not available to the County (DEIR 564, page 203).

COMMENT 10: With respect to the long-term operating cost of the jail and the funding of this cost, this is not an issue that relates to CEQA. As explained in the EIR, a number of funding sources are available other than the County budget (such as the COPS program). However, how the jail operations will be financed has no relationship whatsoever to the environmental impacts of the jail.

There is no intention on the part of the County of Orange to expand the Musick Jail complex beyond what is forecast in this EIR. However, following 2006 (in ten years) it is not now known where future jail facilities will be located. The Orange County Sheriff's Department and the Board of Supervisors continue to evaluate the need to expand the jail facilities, and as has been in the past, this is expected to be a lengthy and arduous process.

COMMENT 11: The basic issue for the jail expansion is that it is necessary now. These exigent circumstances were brought about in part by a delay throughout the years in selecting and maintaining a major expansion jail site, combined with state laws and voter initiatives increasing pressure on the jail system by such laws as "three strikes and you're out." The search for an alternative site that would be a location that would accommodate expansion beyond the year 2006 is not feasible at this time because there is no way such a site can be acquired. The Sheriff's Department attempted to identify such a site in connection with the Reuse Plan Notice of Intent process, but was recommended for denial of that conveyance. If the Board of Supervisors chooses not to agree with that Local Redevelopment Agency staff position, this might focus attention on such a site for post 2006 expansion. However, as mentioned elsewhere in these responses and also in the EIR, the critical aspect of jail expansion is that it happen in the near term to a substantial degree. Were the system not in crisis now, this would not be necessary. However, even if the Board were to identify the El Toro Reuse Plan 250 acres as a site for a jail expansion, at least three years would pass before commencement of construction of that jail site. This issue is addressed in the EIR and the discussion concerning the Reuse Plan as a site for the jail (DEIR 564, pages 211, 212).

COMMENT 12: This comment constitutes the opinion of the commentor and raises no substantial environmental issue.

**Response to letter (undated); received October 4, 1996
from Kendra and Scott Wieland**

COMMENT 1: This comment expresses a position against the jail and raises no substantial environmental issue.

Response to letter dated October 4, 1996
from the City of Laguna Hills

COMMENT 1: The inclusion of 39 acres recommended for conveyance to the County of Orange/Sheriff-Coroner for Musick expansion is not necessary to include in the project description, simply because it has no relationship to the jail expansion. The reconveyance of this land was requested by the Sheriff's Notice of Intent long before the project for the expansion of Musick Jail began its process of evaluation in the EIR, and has no relationship to future expansion, as stated in the Notice of Intent from the Orange County Sheriff's Department. The agricultural land requested is for expansion of the agricultural activities in support of the existing jail operation, which expansion assists in reducing the amount of money that the County Board of Supervisors must pay for feeding inmates. The EIR documents that the Sheriff already saves a considerable amount of money every year for the County by having the inmates grown their own food and agricultural supplies (i.e. eggs, chickens, etc.) for use in the jail system or to trade for other food products in the jail system. If Musick Jail expansion were not proposed, the 39 acres which have been recommended for conveyance to the Sheriff's Department would still be necessary. Therefore, this has no relationship to the project description and does not constitute impermissible piece-mealing.

However it should be noted that the EIR evaluates the loss of agricultural use on the Musick site and does mention the 39 acre reconveyance in the context of the preservation of agricultural land around the facility. This is an issue germane to the existing conditions and the setting of the project, and has consequently been reported.

COMMENT 2: Please see the response to comment 5 of the letter from the City of Irvine. This comment represents a misunderstanding of the project. The 7,584 inmates represents the absolute maximum that can be accommodated at the facility excepting the short term emergency condition, which only adds an additional 384 inmates for 60 days or less. Therefore, the project has been shown at worst case.

COMMENT 3: Please see the response to comment 2. Because the commentor is incorrect with respect to the absolute maximum being used for a basis for impact assessment, the impact assessment is correct.

COMMENT 4: This comment is incorrect. With respect to prime farmland, the EIR specifically discusses the loss of farmland both in the context of on site loss and compensating acreage. This occurs in Section 5.1 of the EIR, as well as Section 8. With respect to PM10 and NOx impacts, these two are

considered in the Air Quality study of the EIR. In fact, in several places in Section 5.2 of the EIR, NOx and PM10 are considered with respect to this project including Table 7 through 10.

Impacts to fire and law enforcement services are found in Section 5.11 and impacts in the hazardous materials area is discussed at length in Section 5.14. Absent any further elaboration by the commentor, it is not understood why the commentor would state that these impact had not been evaluated.

COMMENT 5: This comment criticizes the basis for rejection of certain alternatives, particularly with respect to bankruptcy justifications. The commentor asserts that the bankruptcy documents allow the County "to develop any properties it owns currently or to sell existing properties and use the funds to purchase simultaneously other properties that are equally valuable." As indicated in the "Alternatives" section, and as supported by a discussion with the County Counsel deputy familiar with the bankruptcy Certificates of Participation, this is not the case. Without further definition from the commentor as to what the basis is claimed for contradicting the position of County Counsel with respect to this issue, no further meaningful response can be given.

Further, the comment criticizes the EIR because the EIR does not estimate the cost of the proposed Musick facility and goes on to indicate that the facility is too expensive to be implemented by the County. It is not known upon which provision of CEQA the commentor wishes to rely in indicating that the project itself has to be rejected because it is economically infeasible. There is no provision of CEQA that states this proposition. However, economic infeasibility - together with legal infeasibility, jurisdictional infeasibility, or technological infeasibility - can all be used as bases for rejecting alternatives.

Similarly, CEQA does not call for a site-specific analysis of the environmental impacts of each alternative. In fact, CEQA only calls for project alternatives where significant physical environmental impacts have been found with respect to the project itself. The project has no significant environmental impacts, and ostensibly could have relied only on the no-project alternative in the "Alternatives" section, or at the very most the no-project alternative combined with some alternative that would reduce the need for intersection improvements as reported in the "Traffic, Circulation and Parking" section. Without further elaboration by the commentor in the letter, it is not possible to offer further meaningful response.

The final paragraph of comment 5 indicates the commentors support for several of the alternatives recited in the EIR, and asserts that the Santa Ana main jail expansion alternative was not separately analyzed in the EIR. This is false. Expansion at the Main Jail complex in Santa Ana is specifically considered at pages 210 and 211 of DEIR 564.

COMMENT 6: The incorporation by reference of other documents (not "tens of thousands of pages") from other EIRs prepared by the County is not a violation of *CEQA Guidelines* §15150, particularly in view of the fact that these documents help give the reader an awareness of the history of the county in considering sites. Wherever a document is incorporated by reference, the reader's attention is called to what proposition in that document is relied upon with respect to the discussion. CEQA specifically prohibits an agency from including voluminous data in EIRs, in order to foster public understanding of the EIR document at hand and avoid lengthy data presentations which interfere with that understanding.

With respect to EIR 464, the commentor points to no CEQA section which would prevent the use of this document. *CEQA Guidelines* §15150 indicates that any document that is a matter of public record may be incorporated by reference. The use of the EIR 464 was for the purpose of illustrating the size of a facility that was comprised of ten-story buildings. There is nothing in the judicial invalidation of this EIR that would suggest that this data could not be relied upon. Therefore the commentor is incorrect that this document cannot be incorporated by reference. Finally, the commentor indicates that DEIR 564 for the jail had to be reviewed "during the past two weeks" in combination with DEIR 563 for the Reuse Plan. DEIR 563 was issued on August 8, 1996, and DEIR 564 was issued on August 22, 1996. DEIR 563 originally had a response to comments period due at the end of September, which was extended to October 15. DEIR 564 has always had a comment period ending on October 7, 1996. It is not understood why the commentor is relying only on the past two weeks for review of these two very important documents.

The County maintains that DEIR 564 for the James E. Musick Jail expansion operation remains adequate to serve the purposes of this project and the purposes of CEQA.

**Response to Letter dated October 1, 1996
from Nadia Boutros**

- COMMENT 1:** This comment is an expression of opposition to the jail. The EIR, in the "Public Safety" section, provides substantial evidence that there has never been a safety or crime problem in the vicinity of any of the jails within Orange County.
- COMMENT 2:** This comment is an expression of opposition to the project and does not raise any substantial environmental issue.

Response to Letter dated October 3, 1996
from David Melvold

COMMENT 1: There is no intention on the County's part to conceal any aspect of the project by using the terminology "expansion" rather than the commentor's suggested terminology of "conversion." A review of dictionary definitions for the two terms shows quite a great similarity between them, especially used in this context. The jail *is* being expanded; there is a jail on the property at the present time and it is operated as a minimum security facility. The expansion is both in the size (i.e., number of inmates) and the classification (from minimum security to all classifications). This is an expansion of the function and the size of the jail, and is clearly defined as such in the Environmental Impact Report.

COMMENT 2: Budget sources and financing opportunities do not affect the environmental process in determining how a project is to be evaluated. Essentially, the CEQA process calls for evaluation of the expected adverse environmental effects of a project that is proposed by a public agency or private applicant. The degree to which funding is available for a project has little to do with the agency's consideration of the project; agencies many times approve projects for the purpose of seeking funding.

With respect to build-out, the EIR specifically discusses the build-out in phases of the jail proposal. Section 4.2 at page 50 of the EIR begins a discussion of the relationship between funding and the phasing of the facility expansion. Specifically, the expansion is *expected* to occur in phases, and not all at once.

COMMENT 3: While the commentor is correct that the EIR at page 23 reports that, during 1995, 882 criminals released early were arrested on new charges during the time they would otherwise have been in jail, the data collected for areas surrounding the three county jails attempting to associate recently released inmates with the criminal rate, has found that there is no correlation. Therefore, even though the early-released, re-arrested inmates might initially suggest a criminal intent in the vicinity, this is not been substantiated by an evaluation of data.

COMMENT 4: This appears to be an expression of opinion on the part of the commentor. The cities which have their own jails include Anaheim, Santa Ana and Newport Beach. The last city has a much smaller population than the City of Irvine. In addition, even the jails which cities have in the county, as reported in the EIR, do not keep pre-trial or sentenced medium or maximum security inmates. The jails are for the purpose of booking the inmate into the city jail. Once the inmate is arraigned on a

charge, the inmate is remanded to the Sheriff's custody for housing in the jail system. Because these jails in the County do not hold inmates during the pre-trial, trial and sentencing phases, the number of cities that have build their own facilities in the last few years is not relevant to a discussion of whether the jail system requires expansion.

COMMENT 5: As noted in the response to other comments herein, Table 5 is not offered for the purpose of justifying a jail at the Musick site. Table 5 is provided to show the shortfalls in jail beds available. As explained in the EIR, the Musick site has been focused upon because it is the only other jail site with adequate area for an expansion that the County owns.

COMMENT 6: As specifically stated in DEIR 564 on page 35, an *absolute maximum* of 7,584 beds at the Musick Jail is proposed. This includes the crowded conditions. Only under emergency conditions would an additional 384 inmates be accommodated on a temporary basis. Therefore, the 7,584-bed number already accommodates the overcrowding referenced by the commentor.

COMMENT 7: Table 6 only seeks to indicate the booking statistics within five and ten miles of the Musick site or within South Court jurisdiction. It is for the interest of the reader and is not for the purpose of which city contributes the most arrests. The booking statistics within five miles of Musick show the City of Irvine as representing slightly under 20% of the bookings and representing 7.5% of the bookings within ten miles. It is not suggested that the bookings themselves were used as a siting criterion. Rather, the bookings help identify the representation of arrests in South County and, therefore, arraignments, pre-trial motions and trials in South Court jurisdiction.

COMMENT 8: Please see response to Comment 7. The table is not used for a justification of siting the jail. With the Santa Ana Main Jail complex totaling approximately 7 acres and the Theo Lacy complex in Orange having a site size of approximately 11 acres, the accommodation of beds on the 100+-acre Musick site is more a function of the site's size.

COMMENT 9: The statement referred to in the comment is not intended to be degrading but rather factual. The statement is intended to show that the South County area also has a degree of arrests that very roughly coincides with the percentage of population in the South County area.

COMMENT 10: The area referred to by the commentor is currently patrolled out of the North Sheriff's Station in Santa Ana. When a new station, such as the Southeast Sheriff's Station, comes on line, the patrol boundary is re-evaluated. It is possible that, when the patrol boundary is re-evaluated

with the introduction of the Southeast Sheriff's Station at the Musick site, the Musick site station will patrol the referenced area.

With respect to funding for the project, it would appear that at the present time 100% of the funds needed to construct the station are available.

COMMENT 11: This comment is an expression of opposition to the release procedure proposed for the facility. The current procedure at the facility involves an extremely small number of inmates on a daily basis and is not proposed due to the increase in size of the facility and the increase in traffic for buses going to the Santa Ana Main Jail to release inmates.

An alternative was included in the "Alternatives" section for release of maximum security inmates at the Intake and Release Center in Santa Ana (Section 7.11 at page 207).

COMMENT 12: The commentor is correct that the site layout has been rearranged from that shown in the exhibit for the Notice of Preparation, but this potential rearrangement was invited by the Notice of Preparation itself and at the Scoping Meeting. Specifically, the Notice of Preparation included an invitation to commentors to suggest a rearrangement of the buildings on the site, and this was suggested by some respondents to the Notice of Preparation. The County accepted certain suggestions requesting buffers, etc. and that is why Exhibit 6 appears different than Exhibit 3 in the EIR.

The farmlands which are retained are still highly productive, as documented in Section 5.1 of the EIR. The trees along the east side are proposed to be retained at this time. Since the project will be built in phases, agricultural acreage will always be available for farming. It is possible to continue the farming on-site to a great degree when the project is phased in this manner.

COMMENT 13: This comment is noted and is an expression of support for the statement that no guard towers will be used at the facility.

COMMENT 14: The fencing is specifically depicted in Exhibit 16 of the EIR. The fencing is chain link topped by razor wire. The purpose of Exhibit 16 is to specifically document that the fencing will not be visible from Alton Parkway.

COMMENT 15: The prohibition of parking on Alton Parkway adjacent to the jail is a specific component of this project.

- COMMENT 16: The construction of Alton Parkway from Irvine Boulevard to the site entrance is a cost of the jail project. Therefore, the jail is required to construct that portion of Alton Parkway which extends from Irvine Boulevard to the project entrance.
- COMMENT 17: Peak periods and numbers of inmates vary. Even though there are usually three days of visiting per week, and state law requires that two hours are allotted per week to each inmate per week for visiting purposes, the traffic study and EIR assume 5 days of visiting over a daily 12 hour period in order to present a worst case analysis. However, not all inmates are visited. The statistics in the traffic section and in this section provide for the visitation in the volumes historic for the jail system. The visitors expected each day as noted on pages 43 through 47 are as expected by the jail system in actual operation. The Sheriff is not forced to accept visitors into the facility if it is perceived to cause a problem within the jail or compromises the security of the jail.
- COMMENT 18: The difference between rated beds and crowded capacity is one that is not pertinent to the CEQA process. The total number of inmates is what dictates the amount of staffing and the traffic. The rated number does not. The number of beds shown for Complex 2 should have eliminated the word "rated."
- COMMENT 19: Total staffing for the complex is irrelevant to an Environmental Impact Report analysis. The Environmental Impact Report analysis is a comparison between the existing setting and existing project and the proposed project. Therefore, only the additional staff needs to be stated.
- COMMENT 20: As indicated in this traffic study, there are 96 bus trips per day that would serve the ultimate facility. These buses are expected to be routed along Alton Parkway, which would avoid all residential areas in Lake Forest and Irvine. Therefore, the commentor's suggestion that Alton Parkway be used is exactly the way the project is proposed to operate. This would be for bus trips that would need to go to South Court or the freeway to access other courthouses. If any courthouse is relocated, particularly South County Courthouse, this distribution may change. However, at the present time it is not known where the South County Courthouse will be located.
- COMMENT 21: The EIR does not suggest that the Certificates of Participation provide funds for the jail. The "COPS" program referred to on page 50 is a law enforcement program providing funding for the jail. Although the acronym is the same as Certificates of Participation, it is not the same program. The commentor is correct that this is the Citizens Option for

Public Safety. The EIR does not define COPS as used on this page to mean Certificates of Participation.

COMMENT 22: It is highly unlikely that Complex 3 will be the first complex to be built. The loss of minimum security inmate housing would be difficult to replace. However, the tent facilities and certain other buildings on the site are relocatable, and therefore some housing could theoretically still be provided.

COMMENT 23: The Guidelines to the California Environmental Quality Act at §15150 specifically encourage incorporation by reference. Information pertinent to the EIR is encouraged to be summarized (§15147) and where the information in the EIR is dependent on information from other sources, it is encouraged that the documents be cited and not included in the EIR (§15148). Therefore, the documents referenced are intended to be incorporated by reference into this EIR. This is particularly the case with respect to incorporation of material from the former Musick Jail EIR certified in 1986, because CEQA, at §21166, specifically prohibits the preparation of another EIR unless the project changes and impacts will be new or more severe. If so, the new EIR (or ND) focuses only on those impacts. Therefore, where an EIR has already resolved an issue, another EIR may not be required on that issue.

COMMENT 24: No DDT has been found in the soil used at Musick. The treatment, however, for DDT in the soil is not complex and is routinely conducted in the City of Irvine and other agricultural areas.

COMMENT 25: Alton Parkway extension is not a needed circulation improvement for the jail. As specifically identified in the EIR, Alton Parkway is only proposed to be constructed in connection with the jail project to the jail entrance on Alton Parkway. Therefore, the extension of Alton Parkway northeast of the jail is not necessary to serve the jail.

COMMENT 26: The use of a 25 mph speed for air quality studies does constitute a worst case analysis which takes into consideration stopping and the acceleration/deceleration of vehicles.

COMMENT 27: The setback of Complex 1 is a little more than 100 feet from Alton Parkway right of way. The setback for Complex 2 is considerably greater. The measurement is made at the closest possible point to the right-of-way of Alton Parkway in order to be conservative about the measurement.

COMMENT 28: All trees along Alton Parkway are newly planted trees. The landscape plan called for in Mitigation Measure #31 will identify the tree size.

Often, mature trees do not transfer or grow as quickly as younger trees, and therefore the age of the tree and its size would be within the discretion of the landscape architect.

COMMENT 29: It is not understood what neighbors would be impacted by the noise effect of the block wall, assuming for the purposes of discussion that there was a "noise reflecting" effect. There are no neighbors on the side of the jail where the wall exists, and the jail buildings themselves would attenuate any "noise reflection" from the wall that would be directed back to Lake Forest. Furthermore, the noise of Bake Parkway and the large distance between the wall and Lake Forest would dictate against any noise effect.

COMMENT 30: The inmates have been working on the agricultural lands for quite a few years under much higher noise environments than would be expected with respect to a civilian airport. It is assumed that the commentor is referring to "jet aircraft flyovers" by civilian aircraft as opposed to the overflights by military aircraft that are happening currently and have happened for several years. If the commentor meant military jet aircraft flyovers, then this is part of the existing condition and is not a new focus of the project.

Furthermore, CEQA focuses on the effects of the project on the environment, not the effects of the existing environment on persons.

COMMENT 31: There is no additional construction cost. The building itself, because of the way it is built for security purposes, automatically attenuates the interior living areas. Therefore, the jail attenuates itself and no additional expense is necessary to undertake attenuation.

COMMENT 32: Please see Comment 31. The jail building itself limits noise impact. Furthermore, the noise levels will be lower and not significant at this site after the military base closes, and the jail will not be occupied until the military base closes. For example, a review of Exhibit 18 on page 99 shows that the 65 CNEL for the largest civilian airport alternative does not even approach the jail buildings. Therefore, the jail buildings are not in an unusual noise environment. The 60 CNEL would normally be the environment in which residential buildings were allowed.

COMMENT 33: The statement in the EIR regarding the future lighting of the building is not intended to provide for the direction of lighting outward from the building. The building has security lighting and the wording of the measure is a commonly used mitigation measure for lighting in the County for private projects that has been most effective in limiting lighting spill over.

- COMMENT 34: Work tasks performed by inmates in agricultural fields are not considered recreational uses. Agricultural fields are commonly tended in the area of airports. Furthermore, the outdoor recreation area and nearly all Musick site is outside of the 65 CNEL for the largest alternative for commercial airport. Since the jail will not be occupied before the military cease operations, there is no unusual noise impact.
- COMMENT 35: It is not known what the commentor is referring to when the commentor states "unsubstantiated assertions to the contrary." Lacking further information on this comment, no further response can be made. The statement in the EIR on page 126 is correct.
- COMMENT 36: The commentor is correct that this section should be Section 5.12, and this will be changed in the Final EIR.
- COMMENT 37: The historical data on the existing minimum security Musick facility is relevant to this issue. However, because this data only dealt with minimum security inmates, data from the Theo Lacy Jail EIR was recited in this EIR section to further provide information on this issue. The commentor opines that the incentive to escape is demonstrably different for higher security inmates. Even if this were true — and there is no evidence provided to support this statement — the maximum security housing units proposed would counteract this incentive to escape.
- COMMENT 38: It is not certain, in light of Comment 37, what an "equivalent jail" would be. However, the EIR includes data and crime statistics for Theo Lacy Jail in Orange and the Main Jail complex in Santa Ana. There are more statistics in this section than merely those that concern shoplifting and neighborhood commercial centers. Some of the finest residential areas in the City of Santa Ana are located within a quarter mile of the Theo Lacy Jail, and many of the persons incarcerated and released at Theo Lacy live in Santa Ana. Therefore, crime rate from released inmates in that area is highly relevant, since their direction of travel would be in the direction of these residential neighborhoods. Nonetheless, EIR data documents that there is no relationship between the crime level and the release of inmates.
- COMMENT 39: The escape notification system proposed and currently used is standard in the law enforcement industry for this type of jail. Notification of law enforcement authorities is the superior method to provide for rapid apprehension and community protection.
- COMMENT 40: This comment is identical to Comment 11 herein and the reader is referred to that response.

COMMENT 41: This is an expression of the commentor's opinion about the social characteristics of visitors and is an inappropriate consideration under the California Environmental Quality Act. The traffic report takes into account the scope of visitation. In fact, fewer than 322,000 visitors annually would occur. Since visitation is based on 5 days per week, this amounts to approximately 1,238 visitors per day over a 12 hour period for the entire facility. For the expanded project, if the total number of visitors to all three complexes is added, and then multiplied by a 52-week year and 3 days per week visitation, a total number of visitor incidents is 161,148.

The rest of the comment relates to the commentor's impression of the social characteristics of the people who would visit inmates in the jail system and is not a reviewable aspect under CEQA.

COMMENT 42: It is not fully understood what is meant by this comment. The only purpose of the "Public Safety" section of the EIR is to correlate recently released inmates and visitor records with criminal events in the surrounding area. This is not even an aspect reviewable under CEQA unless it has the capacity to cause a physical change. However, as explained elsewhere in these responses, the information was provided because of public interest in the issue.

COMMENT 43: This comment is another expression of opposition to the release of certain types of inmates at the Musick facility. As explained in the EIR, releases of maximum security inmates at the Theo Lacy Jail are not permitted at the present time. The EIR clearly indicates that these releases would occur at Musick at any time of day. However, to the extent the overcrowding in the jail system is relieved, releases can occur on a less than 24-hour basis. The only reason releases occur "around the clock" at these facilities is due to the pressure from crowding in the jail system.

COMMENT 44: There is no reference in this comment to what "section" is referred to. It is assumed that the commentor is referring to Section 5.9, Public Safety. The comment is in disagreement with the conclusions in the EIR, but offers no contrary evidence.

COMMENT 45: The sentence referred to is not intended to read "like a campaign speech." It is a fact that officials who need to stand for election are measured by how they do their jobs. No where has this fact been more evident than with respect to the County bankruptcy. Therefore, although not intended as the complete support on this issue, the performance of public officials in office is a factor to consider in elections. Even CEQA provides for this in that the reason that public officials must make

specific findings with respect to projects and their relationship to the physical environment is so that citizens have the ability to measure their elected officials' environmental values on election day.

COMMENT 46: This is an expression of opinion by the commentor which has been rejected at this time due to the fact that there is no indication that there is any correlation between criminal events and releases at any jail facility in the County of Orange. Furthermore, even if criminal events increased, the increase in criminal events as a result of socially unacceptable activity is not an impact for review within CEQA.

COMMENT 47: Please see response to Comment 15 herein.

COMMENT 48: The road may be improved to either half width or full width. It really makes no difference which width is selected for construction of the jail from a traffic standpoint, since the road will only be constructed by the jail project to the project entrance. Therefore, there is no difference in traffic impact.

COMMENT 49: The ADT level of 926 was derived from examining the distribution of visitors over visiting hours given the number of visitors assumed per day as shown in the project description. This is a reasonable number, since visitors often come together in one car.

COMMENT 50: Parking is already provided on the site for existing employees. There are very few employees at the existing facility compared to what will be incorporated at the new facility, and therefore the real impact is from the new facility. There is sufficient parking at all phases of the project, and parking was actually overstated in the EIR, since transportation management programs which would otherwise be employed at the jail in pursuit of congestion management and air quality impact reduction have not been taken into consideration in arriving at the parking figure.

COMMENT 51: The County has a considerable amount of experience with the amount of parking space required for visitors, having administered two other major facilities. The County Sheriff's Department, in connection with their operation of the jail facilities, closely monitors parking requirements and engaged in a detailed study of the parking profile and time of maximum demand in connection with the Theo Lacy jail expansion. Therefore, the County's calculation of parking need is particularly accurate.

The ICF only has 24 youths housed in it and is not a major parking demand. Furthermore, the ICF parking is on its own site, and not the jail site.

COMMENT 52: Please see the discussion of socioeconomic effects in the foreword to this Responses to Comments.

The County, although clearly not required by CEQA because of the lack of any suggestion of physical impact as a result of economic impacts, could have fully avoided any assessment of this issue. Nonetheless, the County determined that it would provide economic analysis to determine if there was a statistically significant difference between land values in Lake Forest and the surrounding area and those in other areas. It was found that there is no statistically significant difference. Therefore, a finding of "no effect" is entirely legitimate.

COMMENT 53: Anecdotal information is never meaningful in a technical analysis. Surveying potential home buyers and their reactions to the possibility of a jail expansion (the jail already exists at the site) is not nearly as relevant as what is happening with sales activity. This is what is reported in the study. Furthermore, as is described in the discussion on socioeconomic effects in the foreword to these Responses to Comments, the economic consultant continued to analyze the various data points for land values in August and September, after the study was completed. This was for the purpose of determining whether these additional sales confirm or cast out on the data that had already been provided. As can be seen, it was found that there is confirmation of all of the conclusions in the economic analysis.

However, the most important point to remember is that these types of impacts are not reviewable under CEQA in any event unless a chain of cause and effect can be traced to a *significant physical environmental impact*.

The last part of this comment appears to be about the airport and not about the jail.

COMMENT 54: This is an expression of the commentor's opinion and raises no environmental issue other than disagreement. The time factor is extremely important to the County in terms of bringing the jail facilities on-line. Therefore, feasibility may be found along these lines. Additionally, feasibility is allowed by CEQA to be regarded in the context of the project's goals and objectives. As explained in the EIR "Alternatives" section, these goals and objectives cannot be met with respect to many of the alternatives.

COMMENT 55: The documents referenced were assembled for the public's convenience not only at the offices of the County of Orange but also at the offices of the City of Irvine and the City of Lake Forest. This was well known to

the staffs of both cities, even though there was no obligation of the County to provide the documents at any location other than the lead agency.

COMMENT 56: This is a typographical error which will be corrected in the EIR. Table 6 is the correct number.

COMMENT 57: This statement means that all traffic will come in through Musick Road. There would be insufficient justification to extend Alton Parkway for a facility of this size. While Musick Road could accommodate this traffic impact, it would be more congested than it currently is.

COMMENT 58: As explained elsewhere in the EIR, there are simply insufficient near term sites which are accessible for jail expansion at this time. It is explained repeatedly in the EIR that the County does not currently have the ability to acquire new sites. Since these beds need to be brought on-line immediately, the selection of an alternative which falls far short of the actual need can commit valuable funds without significantly reducing the problem.

With respect to the last sentence of this comment, there are so few adverse physical environmental impacts of this project that virtually any alternative produces the same or greater impacts. This alternative will cover approximately the same area, but since there are no traffic impacts, its size, taken in combination with the existing inmates, would not reduce impacts.

COMMENT 59: This is an expression of an opinion by the commentor as to which site should be built first if Section 7.7's alternative is suggested.

COMMENT 60: The basis for the LRA staff recommendation of rejection of the jail site at El Toro is expressly identified in the alternative found at page 211 "Location of Jail Facilities at MCAS-El Toro."

COMMENT 61: The statement on page 60 refers to the technical report for air quality specifically prepared for this project. The evaluation of alternatives need not be contained within the technical report prepared for the project specifically, as the environmental assessment of impacts for alternatives can be less detailed than that provided for the project in chief.

COMMENT 62: The existence of an approved plan and certified EIR is an indispensable prerequisite for serious consideration of funding, as has been demonstrated by the difficulty in obtaining funding to date without an approved project. The LRA staff's rejection of the conveyance to the Sheriff is a serious obstacle to the implementation of the alternative to

place the jail at the reuse facility with respect to several issues. First, the LRA recommendation is to be considered by the Board of Supervisors, is a recommendation developed by professionals, and is good evidence of the County agency's viewpoint on this issue.

Second, the Reuse Plan EIR — the environmental document which would likely evaluate this conveyance as an initial matter if the conveyance had not been recommended for denial — does not evaluate a jail site within the reuse plan. Therefore, appropriate environmental documentation would need to be prepared and reviewed to determine the environmental impacts of a jail site on the reuse plan area as a proposed project. However, the commentor is correct that the siting of the balance of needed jail capacity elsewhere does not restrict the implementation of the limited expansion at Musick. Since the Musick site will not be built all at once and is described as being built in phases or a series of complexes, there is time to consider whether other events will overtake the apparent obstacles to the implementation of this alternative at this time. However, at the present time it would be irresponsible for the County to accept a limited expansion alternative in light of no other feasible option when the jail system needs expansion.

COMMENT 63: The cap at the Theo Lacy facility is 1,152, and the total number of inmates permitted is 3,111 on this 11-acre site. No such cap is proposed at the Musick site. The cap was incorporated as a part of a settlement and stipulated judgment. There is no suggestion of a "cap" anywhere in the EIR.

COMMENT 64: Legal infeasibility is completely explained in terms of the violation of a settlement agreement and stipulated judgment with the City of Orange. This is stated on page 206. Since there are no environmental impacts as a result of the project, it is hard to see how impacts would be reduced by putting more traffic into a highly congested area (i.e. City of Orange).

COMMENT 65: As explained elsewhere with respect to this letter, other letters, and the socioeconomic effects discussion in the foreword to this Responses to Comments, there is no requirement in CEQA to address perceptions, character of the area or character of persons coming into the area as a result of this project. Therefore, the crime event analysis is not only adequate but is not even necessary under CEQA. It was provided, as explained in several locations, to help the public understand the substantial evidence used by the County to reach a determination on this issue.

COMMENT 66: The cost for busing inmates to the Intake and Release Center is not the only reason this alternative was rejected. There are legal problems, as

explained in the EIR, with the proposal to bus inmates to the Intake and Release Center simply because of administrative convenience. As explained in the EIR, because the inmates are required to be released immediately upon completion of their sentence, the administrative paperwork has to be processed long in advance, and transportation has to be provided back to the Intake and Release Center in enough time that the inmate is not held beyond the release hour.

COMMENT 67: Reduced feasibility does exist for the Katella-Douglass jail site. This site is not even owned by the County of Orange anymore, and is used as a parking lot for the Pond in Anaheim. With respect to the Gypsum Canyon site, the factual support in the EIR relates to the presence of the Eastern Transportation Corridor and the inclusion of this site in the City of Anaheim and the intervening Development Agreement, all of which are very important to the determination of feasibility. The EIR explains this.

The EIR has not picked the "easiest" solution to the problem. The County has searched in vain for over 15 years for a jail site that would be acceptable. It is well documented that there has not been a single jail site evaluated that has not met with opposition from persons who believe the jail is too close. Siting these "local undesirable land uses" has become one of the chief challenges of government in recent years. Out of 58 counties in California, the County of Orange is 50th in terms of geographic size (when the Cleveland National Forest, a federally owned property, is subtracted) and 49th (when the Cleveland National Forest is included in the square mileage of the County). Although it is one of the smallest geographical counties in California, it is 3rd in terms of population.

This means that in all cases the site for a jail required by the large and growing population of Orange County will always be close to someone.

**Response to Letter dated October 4, 1996 from
North Irvine Villages Association**

- Comment 1:** Please see response to Comment 1 of letter from David Melvold. The jail site has not been an honor farm for some years and has been a minimum security jail.
- Comment 2:** The EIR provides substantial evidence that there has not been an increase in crime around any of the other jails.
- Comment 3:** This is an expression of opinion by the commentor and raises no substantial environmental issue.
- Comment 4:** Siting jails is not dependent completely on where the inmates originate or are tried. The purpose of Table 6 — which was data requested by the public during the Scoping Meeting and Notice of Preparation process — is presented to show that the arrest rate in South Orange County is roughly commensurate with the population concentration. Furthermore, the profile for crime severity is not substantially different than the profile for the rest of the County. The commentor's suggestion that the critical dimension of a jail siting is where the criminals are based and not the neighborhood which might be victimized assumes that the criminals do not come from South County. This is not in fact the case. The listing of Irvine as the "safest city of greater than 100,000 in the USA" is similarly not relevant to the siting of the jail. The jail site is not in the City of Irvine but rather in the unincorporated area of the County of Orange.
- Comment 5:** The EIR explains why maximum security inmates are proposed to be released at the facility through Alternative 7.11. The number of increased inmates is justification for the release at the facility, combined with the data presented in the EIR on a voluntary basis showing that the released inmates are not associated with criminal conduct in the vicinity of the jail.
- Comment 6:** Agricultural practices will continue at the jail during construction. This is possible because of the very large size of the facility and the fact that many of the acres that are proposed for future cultivation are currently in cultivation. Please see further response in letter from David Melvold.
- Comment 7:** It is true that the EIR states that the actual visiting schedule will be established after operation begins; however, for the purposes of the EIR visiting was assumed at 5 days per week. The assumption of the actual number of visitors to the complex during those 5 days is derived from

the extensive experience with other jails in Orange County and the number of visitors who typically appear.

Comment 8: The amount of staff at the facility currently is very small in comparison to the increase. The existing staffing is included in the existing conditions for traffic and other environmental analysis areas by a statement of the existing environmental setting.

Comment 9: The total number of trips for buses for the entire project is specifically considered in the "Traffic, Circulation and Parking" section of the EIR. The buses are proposed to travel either Alton or Bake Parkways (particularly Alton) to reach Interstate 5 and have no need to travel through residential communities of Irvine and Tustin.

Comment 10: The COPS program recited in the EIR at this point is the Citizens Options for Public Safety program and not the Certificates of Participation for the County's financial recovery.

Comment 11: Please see response to Comment 23 of the letter from David Melvold.

Comment 12: This is identical to Comment 24 of the letter from David Melvold. Please refer to the response to that comment.

Comment 13: This is identical to Comment 26 of the letter from David Melvold. Please refer to the response to that comment.

Comment 14: This is identical to Comment 27 of the letter from David Melvold. Please refer to the response to that comment.

Comment 15: This is identical to Comment 28 of the letter from David Melvold. Please refer to the response to that comment.

Comment 16: This is identical to Comment 30 of the letter from David Melvold. Please refer to the response to that comment.

Comment 17: This is identical to Comment 34 of the letter from David Melvold. Please refer to the response to that comment.

Comment 18: This is identical to Comment 37 of the letter from David Melvold. Please refer to the response to that comment.

Comment 19: This is identical to Comment 39 of the letter from David Melvold. Please refer to the response to that comment.

- Comment 20:** This is identical to Comment 43 of the letter from David Melvold. Please refer to the response to that comment.
- Comment 21:** This is identical to Comment 44 of the letter from David Melvold. Please refer to the response to that comment.
- Comment 22:** This is identical to Comment 52 of the letter from David Melvold. Please refer to the response to that comment.
- Comment 23:** This is identical to Comment 60 of the letter from David Melvold. Please refer to the response to that comment.
- Comment 24:** This is identical to Comment 65 of the letter from David Melvold. Please refer to the response to that comment.
- Comment 25:** This is identical to Comment 66 of the letter from David Melvold. Please refer to the response to that comment.

**Response to Letter dated October 4, 1996
from Nanci McMannis**

- Comment 1:** This is an expression of opinion on the part of the commentor and raises no significant environmental issues.
- Comment 2:** This comment is quite similar to Comment 2 of the letter from Carol Matheis. It should be noted that the traffic on these streets, both existing and forecast, is no different than forecasts in the Foothill Circulation Phasing Program EIR.
- Comment 3:** This is an expression of opinion concerning Lake Forest and raises no environmental issues.
- Comment 4:** This is an expression of opinion concerning the project, stating opposition to the project, and raises no environmental issues.

**Response to Letter dated October 5, 1996
from Dr. Paul R. Hurt**

- Comment 1:** The mitigation measures will reduce emissions below significant. (Please see further response to City of Lake Forest.) However, these are also temporary impacts during construction. RECLAIM credits are not required for construction projects of this short duration.
- Comment 2:** The thresholds of significance for nitrous oxides expressed in the SCAQMD CEQA Handbook are merely a measure of EIR requirement. AQMD did not respond on this project to either the Notice of Preparation for the Draft EIR, although both were sent to AQMD. This project, acre for acre, has far less impact than a similarly situated housing or commercial project, and therefore is an environmentally superior project from the standpoint of air quality.
- Comment 3:** There is no "prime industrial property" to the north or northeast of this site, and the residential properties to the northeast and east which can view this site are clearly identified in this section. Areas over a mile away will not gain any perception of this site as differentiated from surrounding development. The 12-foot wall mentioned in the comment cannot be seen from areas to the north, northeast or south and is only seen from Alton Parkway. The EIR is correct in concluding that there are no significant effects.
- Comment 4:** Table 15 is correct. To produce a significant difference in noise, a significant increase in the ADT of a road must occur. 4,253 trips is not enough to change the noise profile of an area.
- Comment 5:** The area around the jail is already highly urbanized and will continue in this vein with the implementation of Pacific Commercentre. Lighting will be confined to the immediate area of the jail, and upon completion the jail will not appear as any different than any other building in the industrial complex.
- Comment 6:** This comment constitutes the commentor's opinion that there will be an exodus and consequent degradation of the area due to the lack of desire of persons to live in the area. The commentor presents no evidence to support this conclusion, and the EIR provides substantial evidence in the economic analysis that not only does this conclusion not appear supportable, but there is no statistically significant difference between land values in Lake Forest and other areas as a result of any causal factor. Therefore, it does not appear that the commentor's conclusion is supportable.

Comment 7: Please see the response to Comment 4. Please note that these are very small changes in traffic as a result of the jail. Even considering using the 100-acre site for residential at 10 units to the acre (a relatively low density), a total of 10,000 trips could be forecast. This is more than double the trips of the jail. The roads referred to carry a great deal of traffic both in the existing condition and in the ultimate condition, and they are designed to do so. This is why the increases shown are quite small.

Comment 8: Resale value of homes being reduced is not an impact reviewable under CEQA unless it can be shown that it will produce a direct physical change. (Please see Social and Economic Effects discussion in the Foreword to these Response to Comments.) Anecdotal observations are not evidence which can act to contradict the extensive economic analysis performed for this property. What is relevant is that the land values as dictated by sales prices in the area are not statistically different than elsewhere studied. This has continued to be reinforced through the observations of the economic consultant with respect to August and September closings, even though the August and September closings have occurred during a period very high media profile on this project.

**Response to Letter dated October 5, 1996
from Marcel J. Fernandez, Chairman
J.A.M.**

**Comment 1: Comment so noted. Both letters from Mr. Fernandez and Mr. Richert
as responded to herein indicate their association with J.A.M.**

**Response to Letter dated October 6, 1996
from Marcia Rudolph**

Comment 1: No specific response can be given to this expression of opinion by the commentor, since no details are offered. It is not known what "necessary mediation" refers to.

Comment 2: There is no inaccuracy in the actual trips taken. Counts were taken for this project to verify the traffic volumes on roadways and ensure an accurate analysis.

Comment 3: ADTs shown in the traffic study and the traffic section of the EIR for the referenced roadways are accurate.

Comment 4: The ADTs for the Reuse Plan EIR are calculated in that EIR, which is incorporated by reference into the Jail Expansion EIR. Since the jail is such a small component of traffic for the area, the jail's effect would be lost, as explained elsewhere in these responses to comments, if the jail were combined with the Reuse Plan. Moreover, since the Reuse Plan will likely be implemented long after the jail is constructed and occupied (if approved by the Board of Supervisors), the jail would be the first project to affect the circulation system. Therefore, the approach taken in the EIR magnifies the jail's impacts in the interim condition.

Nonetheless, the response to the letter from OCTA, Comment 1, specifically depicts a table showing the very small effect of the jail taken in combination with the Reuse Plan. Since CEQA only requires the discussion of cumulative effects when they are significant, this is an entirely valid approach.

Comment 5: The jail is not a brightly lighted facility, and residences are not "700 feet [from] the wall of the facility." Residences are over 1,200 feet from the nearest building on the facility. There is no wall on the side of the facility nearest the residences, and the wall is located along the Alton Parkway frontage to conceal the security fencing, as requested by several commentors during the scoping process.

Comment 6: Samples from local wells do not show any contamination mandating clean-up under the site. The water table is quite a distance under the surface, and there is no contact of the water table with the surface. Therefore, this "need" as described by the commentor does not exist.

Comment 7: Please see response to Comment 6 herein.

- Comment 8: There is specific detail regarding the noise of aircraft, which is the only issue that relates to the jail. A specific exhibit is included to depict noise impact from both the military operations and the proposed civilian operations in Exhibit 18. Since the jail buildings attenuate themselves down to the acceptable level, there is no effect on the "civil rights" of the inmates.
- Comment 9: This is not an issue for a CEQA document, as it does not raise any specific environmental issue.
- Comment 10: The EIR does not suggest that any infrastructure impact costs would *not* be borne by the project.
- Comment 11: The warning system for escape is specifically described in the EIR, with the observation that local law enforcement authorities representing and protecting the City of Lake Forest will be notified.
- Comment 12: Please see response to Comment 1 of David Melvold.
- Comment 13: This is an expression of opinion on the part of the commentor and does not raise any environmental issue.

**Response to Letter dated October 6, 1996
from Alan, Cynthia and Leanne Gulick**

- Comment 1:** This comment is an expression of opinion concerning the project indicating opposition.
- Comment 2:** This comment has been raised with respect to other commentors and the responses incorporated herein by reference. It expresses the opinion of the commentor and does not produce any additional evidence.
- Comment 3:** This is the opinion of the commentor and does not offer any evidence in support.
- Comment 4:** This is the opinion of the commentor in opposition to the project and does not produce any additional evidence.
- Comment 5:** This is an expression of opinion by the commentor in variance with the EIR's conclusions and does not produce any contrary evidence.
- Comment 6:** This is the opinion of the commentor and does not produce any contrary evidence.

Response to notation on newspaper article:

It is not known exactly to what "park" the commentor is referring, nor to what the commentor believes the children will be exposed. There is no park "across the street" from Musick. The nearest park is Seranno Park, and this is considered in the EIR. If the commentor is raising a safety issue, the reader is referred to the Social and Economic Effects discussion in the Foreword to these Responses to Comments.

Response to letter dated October 7, 1996
from Marian Bergeson, Supervisor, 5th District

COMMENT 1: The comment on page 5 references Section 7 of the "Alternatives" section for a further explanation of the Certificates of Participation and the practical difficulties in selling the Musick site.

From a legal standpoint, Deputy County Counsel John Abbott has opined that the Musick site can be sold or exchanged for other County owned property or property the County would acquire to substitute for the Musick site. The fact that this exchange is legally possible does not mean that the sale or exchange is actually possible. In Section 7, beginning at page 208, the infeasibility of the sale or exchange of the Musick site is explained fully, by use of information obtained through County Counsel's office of the County of Orange. When the EIR states "the Musick site cannot be sold to acquire another site", it makes this claim based on the practical impossibility described in Section 7, and to which section the reader is referred on page 5.

Please note that there is no requirement in CEQA that the County make a statement of infeasibility as to other alternatives when describing its proposed project. This discussion properly occurs in the "Alternatives" section as a discussion of the other options ostensibly available as an alternative to expansion at the Musick site. While an alternative may be legally feasible, the economic and practical considerations associated with the exercise of that legal option may not be feasible due to other constraints. This is explained in the referenced "Alternatives" section of the EIR, as is appropriate in accordance with CEQA.

COMMENT 2: The questions posed in this comment do not raise any environmental issues, and are related to the Sheriff Department's operation of the jail. Basically, the comment asks two questions - whether the County should make a financial decision to waive booking fees to avoid a judicial remand to the jail system of a misdemeanor, and secondly whether federal immigration law authorizes any form of incarceration alternative. The EIR specifically discusses the small number of inmates which would be involved were either of these options available. Because the jail system requires so many beds at this point in time, and is so over capacity, these measures would only make a very small impact on the number of inmates in the jail. Furthermore, it is unlikely that the Sheriff or the courts would "cite and release" violent misdemeanants in any event. Only nonviolent misdemeanants are now allowed into the types of programs suggested.

Finally, a key factor in whether an illegal alien is placed into the jail system relates to the filling of charges by the District Attorney. This is matter over which neither the Sheriff nor the Board of Supervisors has any control. Once charges are filled by the District Attorney, the undocumented alien is required to remain in the jail system through the entire judicial process and term of sentence and only then can they be deported.

COMMENT 3: The statement in the EIR regarding the Musick Jail expansion being situated appropriately was in response to requests from the public at the scoping meeting that booking statistics be shown for the jail to show that there was an actual jail need in southern Orange County. It was never suggested that only the number of inmates who are arrested in southern Orange County reside at the Musick Jail, nor does the EIR suggest this. The data, however, strongly suggests that the number of bookings is closely related to the amount of population in Orange County in a way that roughly approximates the relationship between bookings and populations elsewhere in the County. For many years those bookings in southern Orange County have been accommodated in the jail systems in Santa Ana and Orange. The EIR clearly indicates that these bookings are less than the total number of inmates proposed at the jail at Musick. However, the number of inmates proposed for Musick is closely related to the actual size of the Musick facility rather than the booking statistics. The Musick facility is 100 acres in size; the main jail complex at Santa Ana is 7 acres in size, and the jail complex at Theo Lacy in Orange is approved for 3,111 inmates on 11 acres. Therefore, it is the size of the Musick facility and the fact that the Musick facility is already owned by the County and is a jail that provides the flexibility for a higher inmate accommodation. Again, the information concerning booking statistics was provided at the request of the public in a scoping meeting.

COMMENT 4: In personal communication with John Iagjian of County Mental Health Services, the number that walk away from the Interim Care Facility in Orange is 36 per year (1995 data for the ICF in Orange). The Interim Care Facility adolescents are highly supervised, and this accounts for the very low walk away rate. Please see further response to this issue in the responses to the City of Lake Forest.

COMMENT 5: The Orange County Sheriff's Department is providing the data to answer this question, as the manner in which the jail operations are funded - while perhaps being a public policy issue or a county fiscal issue - is not an EIR issue, because the cost of operation of the jail has nothing to do with the physical environment. Legislation is to be introduced to continue COPS funding on an annual basis. Other funding options are currently being explored to address these issues.

COMMENT 6: Please see response to comment 5. The important public policy purposes of CEQA to investigate the effects of projects on the physical environment does not also include the effects of the project on county revenue strains or cost. This is not to say that these are not important considerations; they are simply not CEQA considerations.

COMMENT 7: This comment raises several questions regarding the economic analysis. As indicated elsewhere in these Responses to Comments and in the Social and Economic Effects in the Foreword to these Responses to Comments, CEQA does not necessarily require that economic effects be considered in an EIR. However, because of the public interest in this area, and because it is generally accepted that the EIR constitutes a public information vehicle for the public, the County provided this information in the EIR.

In examining the economic data to determine whether there is a diminution in property values, the key question was, is there any statistically significant difference between property values in Lake Forest and property values elsewhere in the county. Contrary to the statement in the comment, it was not only the post-announcement property values that were examined. As the study clearly indicated, a control group of properties prior to the announcement of the jail expansion was made. This study was made with over 500 data points both in the immediate area of the jail and in areas distant from the jail. Furthermore, as the EIR and the economic analysis indicate, the study of property values surrounding the Theo Lacy jail in Orange has been ongoing for a number of years through tremendous controversy and large expansion of that jail system. Finally, the economic consultant retained has conducted several studies of jails and property values in areas outside of Orange County and is an expert in this field.

Additionally, as indicated in the discussion of Social and Economic Effects in the Foreword of these Responses to Comments, the economic consultant continued to examine real estate closings for the months of August and September, after the report was issued and during the period of time when this project has received very robust public response in newspapers, two public information meetings, and a comprehensive EIR review. The notices for this project were sent out to over 383 organizations and persons, published in a quarter page newspaper ad costing over 3,600 dollars not once but twice during the EIR review process. Additionally, the City of Irvine provided notice of its public information meeting to all homeowner associations in the City and published a notice in the Irvine World News, and residents of Lake Forest have testified that they circulated notices concerning the public information meetings, the Planning Commission meeting, the Board of

Supervisor's meeting, and the EIR. The announcement of the expansion of the jail was a good place to start with the analysis, since the actual announcement begins in April and the study contained data through the end of July. The additional data that continued to be collected to gauge the accuracy of this study for the months of August and September reflect closings and property values which are not out of character for the area and not inconsistent with the value that was shown for these properties prior to the announcement of the jail expansion.

As to the question regarding any assumption that prospective buyers would have read an announcement in a local paper, this project has receive extensive coverage in both of the major newspapers in Orange County, as well as local newspapers. There is no practical way to reach prospective buyers, and no suggestion is made in the comment as to how this would be done. It is hoped that in a society as literate as that of Orange County, particularly southern Orange County, that a very high percentage of the population reads the daily newspaper. Several real estate personnel who have testified at the public information meetings and written letters on the EIR have indicated that the notification to potential buyers as to the proposed expansion has resulted in buyers turning away from the area (see letter from Marcel Fernandez). As an EIR matter, it is not known whether a relator is required to notify potential buyers as to the proposed expansion, nor would this have anything to do with the effects of the project on the physical environment.

COMMENT 8: The awareness level of the seven industrial property brokers, some of whom did not know about the expansion does not "skew" the report. The reason that industrial property brokers were consulted is that it is very difficult to gauge any value considerations in industrial property transactions because they are mostly conducted by leases as opposed to sales which sale prices become a matter of public record. Since residential sales are a matter of public record, this data was readily available. However, with respect to non-residential properties, these properties are generally held by a property owner, property management company, or broker who then handles the leasing of those properties. The lease value is not generally published and therefore the interviews were required to occur to gauge any level of interest. Notably, no property broker of an industrial character has commented on this EIR. Therefore, the report is not in anyway defective in relation to this comment.

COMMENT 9: The comment, while expressing concern about the use of the same firm for the expansion that prepared the report for Theo Lacy does not provide any insight as to what types of problems were suspected in the

methodology of the Theo Lacy report. It is assumed that the use of the terminology "first report" relates to the Theo Lacy jail; however, there have actually been two reports on the Theo Lacy jail over a period of three years which have carefully evaluated these issues. The exact methodology was used for these reports and is a recognized methodology for these types of reports. Even a real estate appraisal, which effects the financing and establishment of value for other purposes on property, only examines the condition of the property and the closings in the area. Anecdotal information concerning property value is no substitute for the actual closing data. As explained in the Social and Economics Effects discussion, the only better way to evaluate the effect on property values is to actually build the expansion and then measure the effect. However, this is not considered a desirable approach under CEQA, since some speculation as to what the effect could be is appropriate in connection with the consideration of this issue.

Again, it is emphasized that diminution of property value, even if this were to have been found as a result of the jail expansion, has no place in CEQA unless there is evidence to show that the diminution in property value will result in an impact on the physical environment of an area. The mere fact - even if true - that properties will be worth less because of a project, or will be harder to sell, is not an issue for CEQA. This is not to say it is not an issue for overall consideration in the project. However, CEQA concerns itself only with the effects of the project on the physical environment, and is a supplement to - not a substitute for - the normal decision-making process. The expertise of the economic consultant has not been challenged with evidence from any commentor, and is therefore undisputed. Finally, it should be noted that this economic consultant was used for the Theo Lacy EIR, and was similarly not challenged.

COMMENT 10: This comment raises questions concerning whether privatization is in keeping with *Government Code* §26605 or not. The comment does not explain how privatization would bring about a jail expansion any different than the Musick Jail, or produce fewer environmental impacts. A privately operated jail, if also privately constructed, would also have to comply with the California Environmental Quality Act. This would mean that if the intent of the comment is to avoid the Musick site, another site would have to be located, environmentally documented, acquired, and the jail built and staffed. The County knows of no policy decision on the Board of Supervisors at this time to support privatization in this particular sense. The feasibility of this alternative is described in the discussion on the alternative, which indicates that an in depth study evaluating many issues, as well as changing the current laws regarding operation of county jails, should be conducted prior to further

determination. This approach has never been used by the County Board of Supervisors to date, and a review of the actions of the Board of Supervisors does not indicate any intent to implement this type of use. While privatization of the jail was included as an alternative, it does not avoid any of the effects of the project.

The following information is provided by the office of the County Counsel. A fundamental principal of municipal law is that counties, as political subdivisions of the State statute and constitution or necessarily implied from the expressly granted powers. Martin County v Superior Court (1960), 53 Cal. App. 3d 228, 242. A corollary of this rule is that "whatever powers have not been expressly conferred upon...counties, or which are not necessary to the execution of an expressed power, are withheld from them to exercise." 68 Ops. A.G. 175, 178 (1985). Cases as early as 1925 state this principle, and it has not changed since then.

There currently is no statute or constitutional provision expressly permitting a county (or a sheriff or a board of supervisors acting on behalf of a county) to contract for private operation of a county jail, nor is there any statute or constitutional provision from which such a power can be necessarily implied. Until such a provision is enacted, the County (whether acting through the Sheriff or the Board) does not have the authority to contract for private operation of the Jail.

If such a statute were enacted, it would be necessary to have an intervening election for Sheriff, or an election on the issue whether the Jail should be privately run, before operation of the Jail could be let to a private contractor. Without such election, letting a contract for private operation of the Jail would unconstitutionally contravene the expectations of the electorate when they last elected the Sheriff. Beck v. County of Santa Clara (1988) 204 Cal. App. 3d 789, 794.

COMMENT 11: The major reason why alternative 7.6 is rejected is the fact that it does not produce jail beds in the amount needed to satisfy the project objectives and does not reduce impacts by any significant amount. No environmental impacts have been found as a result of the addition of 7,584 inmates at this complex and therefore the reduction in the number of inmates similarly does not address any impacts. It is not the case that the alternative relies solely on the allocation of fill for the construction of Alton Parkway. However, the source of this fill for Alton Parkway has become more pressing than in previous years due to the Board of Supervisors' adoption of the reserve plan for the Natural Communities Conservation Plan (NCCP), which eliminates from grading consideration many of the areas of the Alton Parkway extension northeast of the jail site that would otherwise be available for this fill dirt. The comment that

"the Draft EIR appears to assume that the Board will be unwilling to appropriate resources to complete the extension" is not understood. The area to the south of Irvine Boulevard, along the Alton Parkway extension, is completely developed, and the only source of the necessary fill is the jail site and the areas northeast of Alton Parkway which remain protected in the NCCP. Even if it is assumed that the grading for Alton Parkway will require 150,000 cubic yard of fill, the import of this fill in 9 cubic yard trucks would result in over 16,000 truck trips to the area, which could result in significant environmental effect.

COMMENT 12: The effects that would be slightly less than the no-project alternative include the incarceration of persons who would commit crimes against the environment. As noted in the "Project Description" of the EIR, the Department of Fish and Game, as well as Harbors, Beaches and Parks personnel, are able to incarcerate people in the County jail system. It is unlikely that these incarcerations would continue to occur if the no-project alternative were implemented. However, with alternative 7.7, there would at least be the opportunity for these incarcerations to occur.

The tunnel was an idea that has not been implemented because the underground utilities were too difficult and costly to move. This was the basis of Mr. King's remark. However, the tunnel problem is simply a response to the Orange County Grand Jury suggestion. The tunnel has nothing to do with the environmental effects of placing inmates at Santa Ana in connection with this alternative, and is a mere convenience to the relationship between the courts and the incarceration system. It is notable that the tunnel would only be used for pretrial motions for inmates being tried in the municipal court, and for felons being tried in superior court. All other inmates having pretrial motions or trials at other county municipal courts would be transported to those courts.

COMMENT 13: The County does not believe that release-related crime throughout the state and nation would be more valuable information to the public than the provided site-specific identification of crime in the vicinity of the facility. The county went to great efforts to investigate the crime surrounding both Theo Lacy in Orange and the main jail complex in Santa Ana, and its relationship to visitors and inmates. Similarly, the EIR preparer consulted with the Baltimore County Department of Corrections regarding a maximum security facility in Towson which releases maximum security inmates directly from the facility into an upper scale residential and commercial area (DEIR 564, page 131, fn. 38). CEQA does not require any review of public safety merely because there may be more criminal incidents. This type of social effect is not reviewable under CEQA as explained in the Social and Economic Effect in the Foreword to this Responses to Comments.

- COMMENT 14: Please see response to Comment 1 of this letter. It is true - and the EIR does not dispute - that any county property can be substituted for the Musick site. The fact that the Musick site is a jail, and therefore restricted property, only goes to the issue of remedies for default and the likelihood that the substituted collateral would either be subject to the same restriction or fear of restrictions. In other words, the question goes to the substance of the collateral and whether it is equivalent. The fact of the matter is that there is no property to substitute. The Board has the legal ability to substitute property and move facilities on or off the Recovery Certificate of Participation Collateral Listing. But in order to do this as a practical matter, the property has to exist. In discussions with County Counsel, such property does not exist, and this comment does not identify any such property. Therefore, the discussion in the EIR reflects the best information regarding the feasibility of substituting the Musick site for another county-owned site.
- COMMENT 15: The citation to the funding and timing of expanding at Santa Ana on land not currently owned by the County of Orange is in fact infeasible at this time due to the exigent need for jail beds in the jail system, and the fact that there are no funds available to acquire (probably by condemnation) the property necessary to expand the jail to any significant degree. Please note that the EIR indicates that even if the jail is expanded in the 12-acre territory line between the main jail complex and Bristol, approximately only 3,250 inmates could be placed in this area even with maximum utility of the land, only about one half of the beds needed by 2006. The commentor does not describe any urban/industrial site which exist for the expansion of the jail, and a letter from the City of Santa Ana on this topic specifically indicates that area covered by this alternative in Santa Ana contains residents who would have to be ejected from the property in order to build the jail (letter dated October 7, 1996 from Robyn Uptegraff, Executive Director, City of Santa Ana, Department of Planning and Building Agency).
- COMMENT 16: The EIR does consider the Grand Jury recommendations of 11-story buildings by extrapolating the Katella-Douglas jail configuration (10-story buildings) at 1,500 inmates per 7 acres. In addition, the 6,500 inmates on the county-owned 3 acres (where the Sheriff's headquarters and vacant land at the existing main jail complexes is) also added into the figure to reach a total figure of 3,250 inmates. The EIR specifically relies on the type of configuration at Katella-Douglas which was 10-story buildings, in coming up with the 3,050 inmate figure. Therefore, this alternative is addressed in the EIR.
- COMMENT 17: During the preparation of the EIR, the Board's prior actions on the Musick facility were researched. There is no document adopted by the

Board of Supervisors in connection with the Musick facility that forswears the expansion of maximum or medium security inmates at this facility. The County has been unable to locate any Board of Supervisors resolution that forswears the increase in classification or size of the Musick facility. What has been located is a 1986 EIR and proposed project for a minimum security facility that the County actually approved. However, the resolution adopting this facility does not prevent future consideration for any other facility.

Any past promise, assurance or statement of good faith by any individual or even by past Board of Supervisors, no matter how well intended, is not binding on the current legislative body of the County of Orange. As time and conditions change, the legislative body must have the ability to react to those changes by taking whatever action is in the best interests of the current situation.

**Response to letter dated October 24, 1996
from South Orange County Association of Realtors**

COMMENT 1: As explained elsewhere in this Response to Comment document and the Social and Economic Effect discussion in the Foreword of this document, residential realtors were not interviewed for this study because the value of homes in the area is indicated by closings. Conversely, since industrial property is mostly handled by leases (which are not reported), interviews with industrial brokers were necessary

As explained in the social and economics discussion in the Foreword, investigation of this area did not stop with the publication of the August economic report based on data up to the end of July. The additional data points which are reported in the Social and Economic Effects discussion show clearly that the results of the study are confirmed. Again, the objective of the study is to determine whether there is any statistically significant difference between home prices in the area and elsewhere. No statistical difference has been found. In addition, there is nothing in the mere price of the home which will lead to the demise of the area, which is the only physical impact that would be reviewable under CEQA.

COMMENT 2: This is an expression of position on the part of the association and is noted.

**Response to letter dated October 4, 1996
from W.L. and A.A. Albugh**

COMMENT 1: This is an expression of opposition to the project. It raises no environmental issues.

**Response to letter dated October 4, 1996
from Kenton Boettcher**

- COMMENT 1: A Short-Term Jail Solutions Report of January 28, 1992 was only for what was then considered short-term relief to the jail system. The Board did not consider long-term facility implications because that was not the goal of the report at that time.
- COMMENT 2: In the exigent circumstances in which the County finds itself, with an immediate and pressing need for additional beds to preserve public safety, and the fact that the bankruptcy and subsequent collateralization of County property has severely impaired the County's ability to pursue other options that government normally has at its disposal, the Musick site becomes a result rather than a selection. The County has studied alternative sites for a location of the jail for many years, and actually selected a site at one time. However, this site, Gypsum Canyon, was later eliminated from consideration (1991) and no substitute site was ever identified. Notwithstanding the commentor's request that a comprehensive site search be conducted, the fact of the matter is that the jail system is now at such critical levels in terms of capacity that the horizon year of 2006 becomes the short-term solution.
- COMMENT 3: The photograph referred to was taken in late March 1996.
- COMMENT 4: This statement is incorrect. The EIR does not assume that the MCAS El Toro will be closed for the purposes of noise. The noise contour map used is the worst-case for El Toro and Exhibit 18 shows both the maximum impact civilian airport noise contours as well as the military noise contours. The jail cannot be occupied (due to design and construction time) prior to the closure of the base in July of 1999. All of the information for noise is up to date and is identical to that used in the Reuse Plan EIR.
- COMMENT 5: The project does lie within the 70 db CNEL contour now, but this is for military noise. As explained in the response to comment 4, the jail facility will not be occupied prior to the departure of jets at the base which will be by or before July of 1999. Agricultural areas are not considered outside activities for the purposes of noise level. In fact it is very common to have agricultural areas surrounding an airport because of the short-term duration of workers exposure to noise. This is a common interpretation of noise policy in the county and the state. Therefore, by the time any occupancy of the jail occurs, there will not be a significant noise environment on this site.

COMMENT 6: The EIR is adequate to meet *CEQA Guidelines* §15131 in that a mere diminution in value, not significantly different from a statistical standpoint from other transactions in the area, does not have any capacity to create the types of physical impact on the environment that are noted in CEQA. The remainder of the comment relates to the commentors opinion regarding research methodology and "poor" data quality without any further explanation of what the commentor finds deficient about the analysis.

COMMENT 7: The original copy of the Tarantello report is signed. There is no liability whatsoever of the type referred to by the commentor, and even if there were this is not an issue that is reviewable under CEQA.

COMMENT 8: It is not understood how the commentor would expect property values from the expansion of the jail to be measured when the jail is not built. To carry out the commentor's objective, the jail would have to be built, and then property values measured. The responsible manner to evaluate property values is to evaluate any response of the market to a new event or announcement and determine if that is significantly different from what occur elsewhere in the area. What is notable about any comment about the economic effects is that such effects are not even reviewable under CEQA unless there is the potential for a significant physical environmental effect. A mere diminution in value does not meet this definition.

COMMENT 9: Anecdotal information from homeowner surveys is not considered responsible data for the purposes of this type of evaluation when measured against what the actual market is doing. Please see the response to comment 8 for commentary on using an announcement as opposed to building the jail and then surveying effects of the expansion.

COMMENT 10: The survey methodology used was completely accurate and has produced proven results in other areas. Were the announcement data the only data used, the study might be less reliable. However, as explained in the social and Economic Impacts discussion in the Foreword to these Responses to Comments, the data has continued to be evaluated during the time the EIR was under review by the public. The data has been confirmed through this secondary review, even though there has been very robust public participation in the public meetings and the media on this topic.

COMMENTS 11, 12, and 13:

These comments raise technical issues with respect to the economic analysis. The reader is referred to the Social and Economic Effects

discussion in the Foreword to these Responses to Comments. No environmental issues are raised in these comments.

COMMENT 14: There are so few sales in industrial property that the sale of industrial property is not considered to be a useful indicator of relative property values when compared with the releasing activity. This is why this methodology was used.

COMMENT 15: This is an expression of opinion on the reliability of the economic report. The economic report contained the past projects of the firm which prepared it showing considerable experience in the area of jail land evaluation analysis.